United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 111th CONGRESS, SECOND SESSION

Vol. 156 WASHINGTON, TUESDAY, JUNE 15, 2010 *No. 89*

Senate

The Senate met at 10 a.m. and was called to order by the Honorable JEANNE SHAHEEN, a Senator from the State of New Hampshire.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Spirit of God, descend on our hearts, for apart from You, life is sound and fury signifying nothing.

Make our lawmakers great enough for these momentous times. Deliver them from pride and prejudice as they seek to live worthy of Your great Name.

Lord, transform common days into transfiguring and redemptive moments because of the power of Your presence and the wisdom of Your words. Cleanse the fountains of our hearts from all that defiles and make us fit vessels for Your honor.

We pray in Your great Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JEANNE SHAHEEN led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 15, 2010.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JEANNE SHAHEEN, a Senator from the State of New Hampshire, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mrs. SHAHEEN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

Mr. REID. Madam President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. REID. Madam President, following leader remarks, there will be a period of morning business until 11:30 a.m., with Senators permitted to speak for up to 10 minutes each. The majority will control the first 30 minutes, the Republicans will control the next 30 minutes, and the remaining time will be equally divided.

Upon the conclusion of morning business, the Senate will proceed to executive session to consider several district court nominations: Tanya Pratt, of Indiana; Brian Jackson, of Louisiana; and Elizabeth Foote, of Louisiana. There will be up to 20 minutes of debate equally divided and controlled between Senators LEAHY and SESSIONS or their designees prior to a series of rollcall votes, which could be as many as three.

Upon disposition of the nominations, the Senate will recess until 2:15 p.m. today for our weekly caucus meetings.

At 2:15 p.m., we will resume consideration of the House message with respect to H.R. 4213, the tax extenders legislation. We currently have six amendments pending. We hope to reach an agreement to dispose of several of the pending amendments today.

As a reminder, cloture was filed on the motion to concur with an amendment with respect to the tax extenders legislation. The only applicable filing deadline in this situation is for second-degree amendments. Under the rule, second-degree amendments must be filed 1 hour prior to the cloture vote tomorrow.

Madam President, I have spoken to the Republican leader on a number of occasions—the latest just a few minutes ago—to see if we can work out an orderly system to not have to have a vote on cloture tomorrow. We are working on that, and hopefully we can conclude that with an agreement sometime in the near future.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

GULF OILSPILL

Mr. MCCONNELL. Madam President, the President will speak to the American people from the Oval Office tonight about a crisis in the gulf that is now in its ninth week. If early reports are accurate, the President will use his remarks not as an occasion to unite the Nation in a common effort to solve the immediate problem but to make his case for a new national energy tax commonly known as cap and trade. If true, this means the President plans to use this justifiable public outrage over an explosion that killed 11 people and the oilspill that followed as a tool for pushing a divisive new climate change policy even as hundreds of thousands of gallons of oil continue to spill into the gulf each day.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Most Americans are baffled by all this. The crisis, as they see it, is a broken pipe at the bottom of the ocean, miles-long oil slicks, and threatened coastlines. The first thing they want to know is what the administration plans to do to plug the leak, clean up the oil, and mitigate the spill's effects on the livelihoods of those affected. Yet day after day, as the oil continues to flow, what we hear from the administration is how tough they plan to be with BP and now, apparently, how important it is that we institute a new tax which will raise energy costs for every single American but which will do absolutely nothing to plug the leak. Never has a mission statement fit an administration as perfectly as Rahm Emanuel's ''never allow a crisis to go to waste.'' Climate change policy is important, but first things first.

Americans are saying two things at the moment: Stop this spill and clean it up. So with all due respect to the White House, the wetlands of the bayou, the beaches of the coast, and our waters in the gulf are far more important than the status of the Democrats' legislative agenda here in Washington. Americans want us to stop the oilspill first, and until this leak is plugged, they are not in any mood to hand over even more power in the form of a new national energy tax to a government that, so far at least, hasn't lived up to their expectations in its response to this crisis.

Republicans are happy to have an energy debate. Like most Americans, we support an all-of-the-above agenda that seeks to produce more American energy and use less. But while American livelihoods are in immediate danger and we watch oil gush into our waters and wash up on our beaches, now is not the time to push ideology; it is the time to fix the problem.

But if the White House insists on using this event as an opportunity to push the same kind of government-driven agenda that got us the health care bill, then they will need to answer some questions. Since the outset of this crisis, they have clearly been more focused on identifying a scapegoat than in taking charge. But questions persist about the administration's response. Here are just a few:

First, the administration acknowledges that it took BP at its word early on about its ability to respond to a crisis such as this. The question is, Why? Why? Why did the Minerals Management Service under this administration accept BP's word that it was prepared to deal with a worst-case spill such as the one we are now experiencing in the gulf?

Second, why were the inspections MMS performed on the Deepwater Horizon, and presumably on other rigs as well, unable to detect the problems that eventually became so apparent? What changes need to be made to make these inspections effective?

Third, the law requires the President to ensure the effective cleanup of an oilspill when it occurs. Specifically, it requires the President to have a national contingency plan in place, and that plan is supposed to provide for sufficient personnel and equipment to clean up a spill. Clearly, the administration's National Contingency Plan was not up to the task. Why not? Did it rely too much on the oil companies to perform the cleanup?

Also, why, as has been widely reported, has the administration been slow to accept offers of assistance from countries that have offered skimming vessels and other technologies to help clean up the spill? Since the cleanup is clearly not going as planned, shouldn't we be accepting legitimate offers of assistance wherever we can get them?

The first priority, as I have said, is plugging the leak. Then we must turn our attention to questions such as these and to a thorough investigation of what went wrong on the Deepwater Horizon and how we can prevent anything like it from ever, ever happening again. That will be a monumental, months-long job, as there were so many failures at so many levels. Once that process begins, perhaps the administration can work to unite the country in the aftermath of this crisis in a way that, frankly, it has failed to do up to now.

Legislation to respond to this oilspill should be an opportunity for genuine bipartisan cooperation of the kind the President so frequently says he wants and of the kind that has been sorely needed and sorely lacking in the midst of this calamity.

Madam President, I yield the floor.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will be a period of morning business until 11:30 a.m., with Senators permitted to speak for up to 10 minutes each and with the time equally divided and controlled between the two leaders or their designees, with the majority controlling the first 30 minutes and the Republicans controlling the next 30 minutes.

The Senator from Washington.

GULF OILSPILL

Mrs. MURRAY. Madam President, as we close in now on 2 months since the deep water explosion that set off the gulf oilspill, the toll of this disaster is continuing to mount—from the oil-soaked pelicans we see on the front cover of each newspaper everyday, to the tar balls that dot a previously pristine coastline, to the closed fishing grounds and half-empty hotels. The human impact is felt in Louisiana, Mississippi, Florida, throughout the gulf coast region. This disaster has reached into our economy, our environment, and the way we see our energy future. But there is one place it also threatens to reach and that is into our pocketbooks.

When it comes to BP's promises to cover all the costs associated with this disaster, I am sorry but I am not ready to take them for their word. That is because as a Senator from the Pacific Northwest, Washington State, I have seen firsthand what happens when big oil is allowed to make promises and not required to take action. When the *Exxon Valdez* oilspill happened in 1989—I remember it so well—that company assured the public that the economic and environmental damage would be paid for. Then I remember them fighting tooth and nail all the way to the Supreme Court, to deny fishermen and families from my home State the compensation they were due.

So I am not impressed by BP's promises and I am not ready to take the word of a company with a track record of pursuing profit over safety. Instead, I believe it is time for us to answer some very fundamental questions, such as who should be responsible to clean this up? Who is going to bear the burden of big oil's mistake? Should it be the taxpayers or families and small business owners who paid such a high price already or should it be the companies that are responsible for this spill, including BP, which, by the way, is a company that made a $6.1 billion profit in the first 3 months of this year alone?

I cosponsored the Big Oil Bailout Prevention Act because the answer is clear. I believe BP needs to be held accountable for the environmental and economic damages of this spill and I am going to fight to make sure our taxpayers do not wind up losing a single dime to pay for this mess. To me, it is an issue of fairness. If an oil company causes a spill, they should be the one to clean it up, not our taxpayers. This bill eliminates the current $75 million cap on oil company liability so taxpayers will never be left holding the bag for big oil's mistakes. This is straightforward, common sense, and fair.

I have to say, I am extremely disappointed that this commonsense bill continues to be blocked by the Republicans every time we have tried to bring it up. But I want everyone to know I am going to keep fighting for the Big Oil Bailout Prevention Act until we get it passed.

That alone is not enough in response. This week I also signed on to a letter to BP's CEO, asking them to back up the promises they are making to pay with action by requiring them to set up a $20 billion fund to begin covering the damages we will see.

It is also why I am working to make sure this never happens in any other part of our country. I have always been opposed to drilling off the coast of my

home State of Washington and this tragedy is just one more painful reminder of the potential consequences of opening the west coast to drilling. The economic and environmental devastation caused by the *Exxon Valdez* disaster is still impacting people and families and businesses in my State. Washington State's coastal region supports over 150,000 jobs and it generates almost $10 billion in economic activity—all of which would be threatened if drilling were allowed to happen off our west coat.

I am going to keep fighting for legislation that bans drilling off the west coast and makes sure big oil companies are never allowed to roll the dice with Washington State's economy and environment.

We need to hold big oil accountable. We need to make sure that disasters such as this never happen again. We also need to remember the workers who were killed and injured in this horrific tragedy. We cannot forget that this is an issue that is larger than this one tragedy. The entire oil and gas industry has a deplorable record of worker and workplace safety. We have to make sure that every worker is treated properly and protected, and that companies that mistreat their workers are held accountable.

We know the oil industry is able to operate under stricter safety standards and regulations because they are already doing that—in Europe, in Australia, and even in Contra Costa County in California, where that county has a set of stricter guidelines that have reduced their injuries and fatality rates for their workers.

But we also know worker safety should not be measured just by injury rates. We should be working at reducing the dangerous conditions that exist such as fires and hazardous spills and release of toxic gases. When accidents do happen, we have to record them, learn from them, and build on a program to prevent them from ever happening again. We have to make sure our workers are treated with respect and their rights are protected. Like a lot of people, I was appalled last week to read reports in the Washington Post about BP's history of worker safety violations and numerous reports of worker intimidation. No workers should ever believe that reporting safety violations could endanger their job and no company should ever pursue its bottom line in a way that endangers its workers.

The Senate deserves answers from BP on worker safety conditions and how suppressing worker complaints could have contributed, actually, to this disaster. So I was extremely disappointed last week when I held a hearing in my subcommittee to examine worker safety issues in the oil and gas industry and representatives of BP failed to show up—failed to even show up.

Workers everywhere have to feel confident that their employers are putting their safety first and companies that betray that trust have to be held accountable. I am going to keep working to make sure that happens. I look forward to having future hearings that I hope BP will come to in the coming weeks so we can get to the bottom of this. Meanwhile, I am going to continue fighting to keep drilling away from the Washington State coastline and I am going to keep pushing to make sure our taxpayers do not have to pay for the mistakes big oil makes.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Illinois.

Mr. DURBIN. Madam President, would you please advise me when I have spoken for 9 minutes.

The ACTING PRESIDENT pro tempore. The Chair will so advise the Senator.

Mr. DURBIN. I thank the Senator from Washington because she brings back an experience that I had 21 years ago, when I went to Prince William Sound in the beautiful State of Alaska. It is one of the most beautiful places on Earth but at that moment it was a sad situation. The *Exxon Valdez* tanker had run aground and spilled literally thousands and thousands of barrels of black, sludgy, crude oil on this beautiful, pristine area. I went out in a Coast Guard cutter to one of the tiny little islands in the middle of Prince William Sound, which is otherwise as beautiful as God ever made this Earth, and there, covered in oil, was this rock-strewn island, and men and women, dressed in yellow slickers, were taking big cotton cloths and trying to scoop up the oil and put these cloths into bags to be carted away. I asked one of the workers, after the television cameras were off, I said, Do you think we are doing any good? He said, If we didn't do anything it would take 10 years for God to clean up this mess. For all we are doing, it might take 9 years and 6 months.

It was a pretty cynical view, but I tell you, 21 years later Prince William Sound is paying the price for that one tanker that ran aground.

Senator MURKOWSKI of Alaska told us some species of fish have all but disappeared. Herring can't be found in this area anymore. Yes, some of it is recovering, but it is slow, painfully slow. It takes generations for that to happen.

We decided at that moment in history that we had to have an oilspill liability fund. In other words, we say to the oil companies, when you produce a barrel of oil we want 8 cents from each barrel to go into an oilspill liability fund so if there is another spill in the future and you cannot pay for it as a company, there will at least be this fund collected from your industry to try to repair the damage—8 cents a barrel.

Let me tell you what the price of oil is today according to the Wall Street Journal. It is over $75 a barrel. So 8 cents represents about one-tenth of 1 percent of the cost of a barrel of oil. Keep that in mind because I want to tell you about an amendment that is coming to the floor this afternoon.

In the bill pending on the floor, we increased that 8 cents to 41 cents. The idea is to have enough money in this oilspill liability fund that if in some future crisis you do not have a deep-pocket, big-time oil company such as BP, we will at least have enough money collected from the industry to repair the environmental damage from tankers running aground or drilling in the gulf or other places that goes awry. We raise it from 8 cents to 41 cents. It is one-half of 1 percent of the cost of a barrel of oil.

Why do I bring this up? JOHN THUNE, Republican Senator from South Dakota, is going to offer an amendment this afternoon. Most people will not get a chance to read it in its entirety. It is 210 pages long. Let me tell you several features that are worth noting, particularly as President Obama speaks to the American people tonight about what is going on in the Gulf of Mexico, with this bill. JOHN THUNE offers the Republican substitute amendment, and what JOHN THUNE does for the Republicans is to eliminate the increase in this tax on a barrel of oil. Of course, big oil doesn't want to spend this money. They don't want to pay this tax. They don't want to create this oilspill liability fund. And the Republican substitute says they do not have to. Even though we know and see every single minute of every day the damage being done in the gulf, the Republican substitute amendment eliminates the increase in the tax on a barrel of oil.

That is not all. In our bill we also increased the liability for oilspills. Now it is at $1 billion. We increase it to $5 billion. Is there anyone who thinks that we can escape with only $5 billion in damages from what is going on in the Gulf of Mexico? I don't. Sadly, I think it is going to be much more. We tried to change the underlying law to say in the future, for any for oilspills, there will be liability up to $5 billion in our underlying bill. The Republican substitute eliminates the increase in liability for the big oil companies.

This is a dream come true for big oil, but it is not a dream come true for America, where we are so dependent on oil today and where we need to make certain if there is another environmental disaster tomorrow, we are prepared to take care of it.

What is the alternative if the Thune Republican substitute passes? If the damage occurs in Prince William Sound, in the Gulf of Mexico, who will be expected to bail out the damage? American taxpayers. So the Republican substitute takes the burden off the big oil companies and puts it on the taxpayers of this country. That is wrong. It is fundamentally wrong. If for no other reason I hope the Senate rejects the Republican substitute, that they would have the nerve to stand up in the Senate today, standing up for big oil under these circumstances. How can

they possibly defend that? They will try, and you will hear it on the floor.

There is one other provision that ought to be noted in the Thune substitute and here is what it says. It eliminates the language in the underlying bill that creates incentives in America's Tax Code for American businesses to relocate their production facilities overseas. Think about it. We have incentives in our Tax Code rewarding American businesses that build production facilities overseas. Does that make any sense in this economy, with 8 million people out of work and 6 million who have given up looking for jobs, that we would eliminate the provisions that stop companies from moving overseas? We need to keep good-paying jobs right here in America.

The Republican substitute does not agree. The Republican substitute wants to continue to incentivize American companies so they will move production facilities overseas. We give them a break in the Tax Code now in terms of the taxes they pay on the income they earn overseas, but the bill before us eliminates it and the Republican substitute defends it.

How can they do this? In one amendment they defend big oil companies and stop us from collecting money to protect taxpayers if there is another environmental disaster. Then they turn around and try to protect the loopholes in the Tax Code so that American businesses can move their production facilities overseas. It is the clearest definition of the difference between the two political parties I have seen in a long time.

Earlier, the Senate Republican leader came forward, Senator MCCONNELL, and said we need more government in the Gulf of Mexico. I think we do have an important responsibility here as a government to make sure the damage that has been done by British Petroleum is in fact taken care of and repaired—and there will be a lot of it, unfortunately. It is interesting to hear these speeches from the Republican side of the aisle about how we need an expanded role of government. It seems as though some of my colleagues are suffering from political amnesia. It was not too long ago that they were coming here crying that government was too big and had too big a hand in our economy, but we have learned through the recession brought on through the greed of Wall Street, through this terrible environmental disaster in the Gulf of Mexico, there is a legitimate and important role of government.

Tonight the President of the United States will address the American people and tell us about what we are doing and what we need to do. It will go beyond this terrible environmental disaster and challenge us to look to the big picture, the picture about the future of energy and the American economy. There are some people who do not want to talk about this, but it is fundamental. We need to move our nation forward—with cleaner, renewable, sustainable sources of energy.

We need to have more efficient cars and trucks that burn less fuel for the same mileage. We need to have fewer emissions into the environment which damage our lungs and the Earth on which we live, and we need to have a policy that is forward looking. When I listen to the other side of the aisle, they are looking in the rearview mirror. We cannot afford to do that anymore. America can move forward together when we accept our responsibility to the environment and to provide clean, renewable energy for the growth of our economy.

I reserve the remainder of my time and yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from New Jersey.

Mr. MENENDEZ. Madam President, there is no doubt that the vivid images we see every day of economic and environmental tragedy unfolding in the gulf are unprecedented, if not apocalyptic in nature. They have opened our eyes to the need for a fundamental redirection in our policy and the need for definitive action now to hold big oil accountable. The images are horrific, and they have made Americans realize the dirty fuels of our industrial past and the environmental and human toll they are taking in the gulf as we speak should now give way to a consensus on a real, meaningful investment in clean energy and increased oversight of corporate polluters.

The time has come for change and this Congress needs to stand up for all those families in the gulf, for the rich habitats of marshes and estuaries that are being destroyed. The time has come to make the big polluters pay. But the time has also come to look ahead and plan for a smarter, greener, safer, cleaner future.

No one—no one—can look at what is happening in the gulf and think we should not call big oil to task. No one can look at the images of brown pelicans drowning in a tide of crude oil and not wonder how to stop it and, at the same time, how to move to a comprehensive energy policy that will take us beyond our reliance on fossil fuels and toward clean energy independence. No one can look at Louisiana shrimpers and oystermen, fishing fleets idle, businesses closed, and not feel for those families wondering how they will get their lives back.

This is not the time to shield big oil from full responsibility, as our colleagues on the other side seem to favor. This is not the time for excuses. Two things are clear. Those who are at fault must be held accountable. We need to embrace this tragedy as an opportunity to formulate a new American energy policy that creates American jobs and ultimately invests billions of dollars that we spend on foreign oil at home on clean energy sources. Our friends on the other side of the aisle have said no to that approach. They have said no to energy reforms and favored big oil. They said no to every effort to hold big business accountable for its failures. They said no to Wall Street reform and favored big banks. They said no to environmental oversight and favored corporate polluters. They have said no to even commonsense economic recovery legislation to put people back to work and save the economy from the disaster 8 years of their policies have created. They said no to families denied health coverage and favored big insurance companies. They have also continuously blocked my Big Oil Bailout Prevention Act that would hold BP accountable for damages, lifting the liability cap from the ridiculous $75 million worth of liability—less than 1 day's profit for BP—and lifting it to an unlimited liability since they have created unlimited damages in the gulf. No, they come up with proposals that basically are to protect big oil.

Let's index it to their profits regardless of how much damage they have created. Let's worry about the ''smaller driller'' even if they cause unlimited consequences to our environment. Is there a difference between a $100 billion company and a $10 billion company when both of them create the same environmental damage that has been created in the gulf? I don't think so.

The question is, Whose side do we stand on. Do we stand with the taxpayers to make sure they don't reach into their pockets for big oil's consequences, or are we going to defend big oil? If we were to bring to the floor a bill to invest in a clean energy future and create clean energy American jobs, they would say no to that as well.

It seems to me it is time to say yes to American-made clean energy, yes to the millions of jobs it would create. It is time to also end tax loopholes for big oil companies, such as BP, that are avoiding paying billions of dollars in taxes. They are getting huge tax breaks for drilling activities and revenues, and they are concocting foreign tax schemes, all of which amount to more than $20 billion over the next 10 years.

That is why I have introduced a bill to end tax loopholes for big oil. It seems to me the flow of revenues to the oil companies is like the gusher at the bottom of the Gulf of Mexico. It is pretty heavy and constant. There is no valid reason for these multibillion-dollar international corporations to shortchange the American taxpayer. They certainly are not using the extra money they get from exploiting tax loopholes to bring down the price of a gallon of gasoline for New Jersey families.

Unlike the gusher in the gulf, we can topfill these loopholes and shut them down quickly and permanently, if we pass this legislation. But my colleagues on the other side continue to say no to commonsense reforms. We could use the billions of dollars and giveaways to big oil for an alternative fuel program. We need to look at the

economic potential for modern, safe, renewable energy rather than to take the risk of another environmental and economic disaster. Instead of doubling down on 19th century fossil fuels, we should be investing the money we have been giving to big oil in the clean, limitless, 21st-century energy that would create thousands of new jobs, significantly reduce the burden of energy costs, and help clear the air we collectively breathe. It is time we close those loopholes and move forward on alternative fuels and embrace the future rather than cling to the ways of the past and pay the oil companies to continue those ways of the past.

Specifically, the legislation I have introduced recoups royalties that oil companies avoided paying for oil and gas production on public lands. It prevents big oil from manipulating the rules on foreign taxes to avoid paying full corporate taxes in the United States. It ends tax deductions and giveaways to big oil such as deductions for classifying oil production as manufacturing, deductions for the depletion of oil and gas through drilling, and the deductions for the cost of preparing to drill. That is right. Big oil actually gets a deduction for preparing to drill.

Among other provisions, it recoups royalty revenue with an excise tax on oil and gas produced on Federal lands and on the Outer Continental Shelf to pay back taxpayers for contract loopholes. That would save an estimated $5.3 billion. It ends big oil's abuse of foreign tax credits, saving another $8 billion.

While the Close Big Oil Tax Loopholes Act stops giving big oil tax breaks, it protects refineries and oil companies with yearly revenues of less than $100 million and lets them retain certain tax credits and deductions. It repeals big oil's expensing of drilling costs. In the President's budget, this saved $10.9 billion, but we are exempting smaller companies that would lower that estimate. It repeals big oil's depletion allowance for oil and gas wells estimated to save $9.6 billion. It is time to close these big tax oil loopholes, time to stem the flow of revenue to the oil companies, and invest in smart, alternative fuels for the future.

The fact is, oil companies make up 4 of the top 10 spots on the Fortune 100 list of the largest corporations. In the first 3 months of this year alone, in the first quarter of 2010, the top 5 oil companies made over $23 billion in profits—not revenue, profits.

They can afford to do business without American taxpayers subsidizing them. It is time for action. Millions of Americans are out of work. Families are hurting. Communities are hurting. People everywhere are feeling the pinch, and big oil companies are raking in the profits.

At the same time, some of them, such as BP, are creating enormous environmental disasters in our country. That is why I am proud of my colleagues in the Senate Democratic caucus who sent a letter to BP saying: Put $20 billion down in an escrow account administered independently so we can make sure those in the gulf begin to have the relief they so desperately need.

To my colleagues on the other side, it is time to stop saying no and do what is right, what makes sense, and what keeps us secure. It is time to stop saying no to commonsense policies that end tax loopholes that benefit big oil. It is time to protect American taxpayers by lifting the liability cap so big oil, which made the spill, messed up, should clean up, be responsible for it, instead of American taxpayers. It is time to use those tax breaks from big oil and close them to invest in clean energy solutions that create greener, better, more secure American jobs for the 21st century. It is time to hold big oil accountable and invest in the future.

Those are the choices. I hope we will make the right ones.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Florida.

Mr. NELSON of Florida. How much time remains?

The ACTING PRESIDENT pro tempore. There is 3 minutes 45 seconds remaining.

Mr. NELSON of Florida. Madam President, I just came back from Pensacola. I saw the oil not only out in the gulf, I saw the oil in Pensacola Bay. It is also in Perdido Bay. There are tar balls in the bay. They are slipping underneath the booms. Those tar balls are getting into the wetlands, into the marsh grass. But out there in the bay, there is this reddish orange gunk. Sometimes it is in streamers. Sometimes it is in hamburger-sized patties. Sometimes it is in quarter, dime-sized patties. It looks awful. That is what we are facing. We are going to face it for a long time, especially if the oil continues to gush into the gulf for the rest of the summer.

We have to have a command-and-control structure. After talking to all of our people in Pensacola at the emergency operations center, it is getting better. But it had to get better because when the oil entered Florida waters in Perdido Bay, the emergency operations center in Florida was not even informed by the EOC in Pensacola. So it has to be tightened up more, like a military chain-of-command structure, so when things need to get done they can get done immediately.

The problem in the past has been the Coast Guard is here. BP is there. BP is doing its thing. We can't do that for the long term, as much as we will be facing.

Secondly, we have to set up a trust fund because we are going to be in this for the long haul. Think of the restaurants and their livelihood that is at stake—not just the fishermen, the restaurants because people are not coming. What about the hotels? What about the lessened revenue for local governments and the school boards as a result of people not having the economic activity due to our fishing, our oystering, our beaches, our tourism, and all that? It is humongous. We need a trust fund.

Fifty-five of us sent a letter 2 days ago saying we want a trust fund set up by BP, operated by an independent group, that would be on the magnitude of $20 billion. Let's get it now. I don't think BP is going to be going broke. But on the basis of the experience with the Exxon Valdez, a lot of those claims, there were questions about whether they ever got paid when there were legitimate claims.

Third, tonight is the time for the President to say: We are going to declare that this Nation is getting on a road rapidly to make our independence from our dependency on oil.

That is a report straight from the Gulf of Mexico on the Florida coastline.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

Mr. ALEXANDER. Madam President, I thank the Senator from Florida for his comments. All of us are deeply concerned about his State, the coast, and those others on the gulf coast. I know he is working hard to see that the Federal Government makes the appropriate response.

Tonight the President of the United States speaks to the Nation from the Oval Office about the oil spill. The oil spill is in its 57th day. I would like, with respect, to suggest what I hope the President does not do tonight and what I hope he does do, because the entire Nation's attention is focused on this tragic spill, the consequences for the people in the gulf, the consequences for the people of this country, and the consequences for our energy and economic future.

What I hope the President does not do tonight, No. 1, is use the oil spill as an excuse to pass a national energy tax, collecting hundreds of billions of dollars from Americans and driving jobs overseas looking for cheap energy. The so-called cap-and-trade national energy tax is not appropriate here because it has nothing to do with cleaning up this oil spill. Not only does it drive jobs overseas, it also does not work when applied to fuel. We have had plenty of testimony before the Environment and Public Works Committee. It would simply raise the gasoline tax but it is not going to change behavior enough to reduce the amount of gasoline consumed or carbon emitted. Finally, when applied to utilities, is premature because we have not yet found ways to recapture carbon from coal plants cost effectively or in a way that would enable coal plants to make money from the carbon rather than raising the price of everybody's electric bill.

So, No. 1, I hope the President stays focused and does not follow the advice of the White House Chief of Staff, who

has been so often quoted: Never let a crisis go to waste. This is a crisis, but do not try to mislead the American people into thinking the cure for the oil spill is a new national energy tax that drives jobs overseas looking for cheap energy.

No. 2, I would hope the President—while helping us figure out what to do about the oil spill and making sure it never happens again—does not destroy the rest of the gulf coast economy in the meantime. The Senators from Louisiana, Ms. LANDRIEU and Mr. VITTER, have both spoken eloquently on behalf of the livelihoods of so many in that area. We do not stop flying after a terrible airplane accident, and we are not going to stop offshore drilling after a tragic spill such as this one. What we need to do is to find out why it happened and to make sure it does not happen again.

Thirty percent of the oil and twenty-five percent of the natural gas we produce in the United States comes from thousands of wells in the Gulf of Mexico. If we were to shut them down, natural gas prices, home heating prices, and gasoline prices, all would skyrocket, and we would rely more on tankers from overseas that have a worse safety record than the offshore oil drillers.

No. 3, I hope the President will not recommend, as the current legislation pending in the Senate does, that we spend taxes collected for the Oil Spill Liability Trust Fund on something other than cleaning up oil spills. Let me say that again. I think Americans might be looking at Washington and wondering: What is this? You mean to say I am paying a higher gasoline tax, in effect, to go into a fund to clean up oil spills and the Congress is thinking about spending that money on something other than cleaning up oil spills? The answer is exactly right.

The proposal that is on the floor before the Senate today would raise from 8 cents to 41 cents the per-barrel fee on oil that is supposed to be used to clean up oil spills and spend it on more government. So that is another thing I hope the President does not do tonight. I hope he remembers it is called the Oil Spill Liability Trust Fund. If we want to re-earn the trust of the American people, we would spend the oil spill cleanup money on cleaning up oil spills.

Finally, I hope the President does not pretend that renewable electricity has anything to do with reducing our dependence on foreign oil. Already, I see the ads for the windmills that the big corporations are putting out. But let's think about renewable electricity for a minute. We are talking about oil in the gulf. We use oil for transportation, not to create electricity. Renewable electricity—wind, solar, and biomass—creates electricity, which we do not need more of for transportation because there is so much unused power at night. So a clean energy program that is a national windmill policy or a national solar energy policy or national biomass policy may be useful for the country in some ways, but it has nothing to do with reducing our dependence on foreign oil. I will say more in a minute on how we can do that.

But let me stop for a minute, if I may, to back up what I said. Solar energy, for example, is two-hundredths of 1 percent of the electricity we produce in the United States. We all hope someday we can reduce its cost by a factor of four and put it on rooftops as an intermittent supplement to our electricity needs. It has great potential for that. But the better way to spend money is on research and development to reduce its cost, not to pretend that somehow solar panels have anything to do with cleaning up the oil spill or reducing oil consumption.

Biomass, which is sort of a controlled bonfire, has the potential to help clean up our forests and generate electricity. We have in the forests of Tennessee, New Hampshire, and other places dead trees from the pine beetle or from other disease. Cleaning them up and burning them to create electricity is a good idea, and there is biomass is also an important source of energy for our industrial sector as well. But the idea of cutting down and burning trees to create large amounts of electricity is a preposterous idea in the United States.

As an example, one would have to continuously forest an area one-and-a-half times the size of the Great Smoky Mountain National Park in order to produce enough electricity to equal one nuclear reactor. And in foresting an area one-and-a-half times the size of the Great Smoky Mountain National Park, you would have hundreds of trucks every day running up and down the mountain, belching out fumes, carrying the wood to a place to burn it.

Finally, wind, which has become the ''pet rock'' of the 21st century energy policies. Wind can also be a useful supplement in our country. But it is important to know that it only produces 1.8 percent of our electricity, and wind turbines have nothing to do with reducing our country's dependence on oil. In addition, there are many other more efficient ways to produce clean, carbon-free electricity.

For example, I just mentioned that wind produces 1.8 percent of all of our electricity and about 6 percent of our carbon-free electricity. Nuclear power produces 20 percent of all of our electricity and 70 percent of our carbon-free, pollution-free electricity. To produce the 20 percent of our electricity that comes from about 100 nuclear reactors today would require 186,000 of these 50-story wind turbines covering an area the size of West Virginia. The Tennessee Valley Authority, in the region where I live says that it can depend on wind to be there when it needs it 12 percent of the time because, of course, you can only use it when the wind blows. This compares to the dependability of nuclear to be there 91 percent of the time when it is needed.

Then we have all seen and heard the awful stories of the pelicans immersed in oil. Well, that is not the only form of energy that causes a problem with birds. The American Bird Conservancy says the 25,000 wind turbines we have today can kill up to 275,000 birds a year, and one wind farm in California killed 79 Golden Eagles in one year.

So the point is, we need renewable energy. We need to advance it. We hope solar becomes cost competitive. Biomass can be useful. So can wind power. But it has nothing to do with reducing our dependence on foreign oil.

Now what do I hope the President does say tonight.

Well, No. 1, I hope the President stays focused on cleaning up the oil spill—cleaning up the oil spill and taking care of those who have been harmed. We need a plan to fix the problem. We need accountability in the regulation of energy production. We need to ask the question, Where is the President's plan? Where are the people and the equipment necessary to implement the President's plan to clean up an oil spill? This is not the first time we have had such a spill. After the Exxon Valdez tanker spill—that was different, but it was still a big spill of oil—the country was convulsed by that, and Congress acted and passed the Oil Pollution Act of 1990. It said the President shall ensure that he has a plan to clean up a worst-case oil spill and have the people and equipment to do it.

Effectively, the President has delegated that job to the spiller. Perhaps President Bush would have done the same. Perhaps President Clinton would have done the same. But if the only option the President has is to delegate the law to the spiller, perhaps he should amend his plan or we should change the law. We should discuss that, and perhaps the President will make a recommendation on that.

But tonight the first thing is: Clean up the oil. Get the job done. Plug the hole. No. 2, help people who are hurt. I come from a State where we have just had a thousand-year flood event, where we have had $2 billion of damage in Nashville alone, and the flood damage went all the way to Memphis. We know what that kind of pain is, and people are busy helping each other and cleaning up and not looting and not complaining. But we feel deeply for the people on the gulf coast and we want to help them. We would like to help make sure BP pays for the cleanup and damages as they have promised. We would like to help raise the limits on liability and address the Oil Spill Liability Trust Fund. Congress might consider the nuclear energy model of insurance for the future because that model gets all of the nuclear companies involved in, No. 1, making the nuclear reactors safe, and in, No. 2, addressing any sort of accident they had.

I wish to see a similar sort of insurance fund for the oil well companies so you do not have just BP involved in cleaning it up, but you have every

other oil company interested also in providing the technology, the expertise, the help and the advice to do the job.

The third and final thing I hope the President does is chart a way for our clean energy future. I have heard a lot about that on the other side of the aisle, and there is a great deal of bipartisan cooperation in this area. Let me be specific. For fuel, I hope the President will renew his support for electric cars and trucks. Republican Senators—all 41 of us—have said we support the idea of electrifying half our cars and trucks. That is a very ambitious goal for our country. But we can do it. It is the single best way to reduce our dependence on foreign oil. If we were to electrify half our cars and trucks—which would take a while—we could reduce our dependence on oil by perhaps one-third. But we would still be using 12 million barrels of oil a day.

Senator DORGAN and I and Senator MERKLEY have introduced bipartisan legislation to create a better environment for electric cars and trucks in America. The President has strongly urged this idea, and Secretary Chu has worked hard to create support for batteries and for cars. There is room for bipartisan agreement on the single best way to reduce our dependence on oil, and that would be by encouraging electric cars and trucks; electrifying half of them.

No. 2, for electricity, the single best way to produce clean electricity is nuclear power. One hundred nuclear reactors produce 20 percent of our power, but 70 percent, as I said, of all of our carbon-free electricity. Senator WEBB and I have introduced legislation to create an environment in which we can build 100 more nuclear reactors.

We do not need these reactors in order to have electric cars and trucks. The Brookings Institution and Obama administration officials have said we do not need to build one new powerplant in order to electrify half our cars and trucks because we have so much extra electricity at night. If we plug them in when we sleep we can have electric cars and trucks and would need no new windmills, no new nuclear plants, no new coal plants for that purpose.

But if we need new green electricity, the best source for it is nuclear powerplants. They are the most useful. They are the most reliable, and they do the least damage to the environment. The number of deaths due to nuclear accidents at American commercial U.S. nuclear powerplants is zero. The number of deaths due to nuclear accidents in the Navy nuclear fleet is zero. There is a system of accountability, and as a result, a very good record.

So it is electric cars and trucks for fuel, nuclear power for electricity. The President has been very good in the last few months on nuclear power. He has appointed strong members to the Nuclear Regulatory Commission. He has appointed strong members to a commission to deal with used nuclear fuel. He has done a good job of beginning to get the loan guarantees going for the first new plants. So electric cars and trucks and nuclear power are areas where we should be able to work in a bipartisan way in the future.

The third area is on energy research and development. The President has recommended and the Congress has approved more money for energy research and development. Republicans support doubling our energy research and development for a clean energy future. That would mean projects such as reducing the cost of solar power to one-fourth of today's cost. That would mean recapturing carbon from coal plants. It would mean developing a 500-mile battery, which would almost guarantee the electrification of half our cars and trucks over time. It would mean intensive research to find ways to recycle used nuclear fuel in a way that does not isolate plutonium. It would also mean research for making clean biofuels from crops we do not eat.

Making great advances in solar, carbon recapture, electric batteries, nuclear recycling, and biofuels would be the third important part of our energy future. While we are at it, Congress should pass the clean air bill Senator CARPER and I have authored, and that 13 other Senators have cosponsored. It is cosponsored by eight Democrats, six Republicans, and one Independent. While we are figuring out what to do about carbon, we can go ahead and do what we know how to do, which is reduce pollution from mercury, sulphur, and nitrogen from our coal plants to improve our air quality, reduce health care costs, and save lives.

So there are many things I hope the President will talk about to have bipartisan support: fuel, electric cars and trucks, electricity, nuclear plants, energy R&D, solar, carbon recapture, batteries, nuclear, clean fuels, and finally, the clean air bill Senator CARPER and I and others support.

This is an important time for our country. It is a time when we deserve bipartisan action. It is a time when we deserve to look to the future. It is a time when we need to focus on cleaning up the spill, helping the people who are hurt, planning for a future, and doing it in a realistic and bipartisan way.

Mr. President, I ask unanimous consent to have printed in the RECORD an op-ed I wrote and which was published in the Wall Street Journal on Friday and an address I gave yesterday in Knoxville to a group of scientists entitled ''Nuclear Power is Green.''

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, June 11, 2010]

AN ENERGY STRATEGY FOR GROWN-UPS

(By Lamar Alexander)

The tragic Gulf oil spill has produced overreaction (''end offshore drilling''), demagoguery (''Obama's Katrina'') and bad policy recommendations (''We must generate 20% of our electricity from windmills''). None of this helps clean up and move forward. If we want both clean energy and a high standard of living, here are 10 steps for thoughtful grown-ups:

(1) Figure out what went wrong and make it unlikely to happen again. We don't stop flying after a terrible airplane crash, and we won't stop drilling offshore after this terrible spill. Thirty percent of U.S. oil production (and 25% of natural gas) comes from thousands of active wells in the Gulf of Mexico. Without it, gasoline prices would skyrocket and we would depend more on tankers from the Middle East with worse safety records than American offshore drillers.

(2) Learn a safety lesson from the U.S. nuclear industry: accountability. For 6o years, reactors on U.S. Navy ships have operated without killing one sailor. Why? The career of the ship's commander can be ended by a mistake. The number of deaths from nuclear accidents at U.S. commercial reactors is also zero.

(3) Determine what the president's cleanup plan was and where the people and the equipment were to implement it. In 1990, after the Exxon Valdez spill, a new law required that the president ''ensure'' the cleanup of a spill and have the people and equipment to do it. President Obama effectively delegated this job to the spiller. Is that a president's only real option today? If so, what should future presidents have on hand for backup if the spiller can't perform?

(4) Put back on the table more onshore resources for oil and natural gas. Drilling in a few thousand acres along the edge of the 19-million acre Alaska National Wildlife Refuge and at other onshore locations would produce vast oil supplies. A spill on land could be contained much more easily than one located a mile deep in water.

(5) Electrify half our cars and trucks. This is ambitious, but it is the best way to reduce U.S. oil consumption, cutting it by one-third to about 13 million barrels a day. A Brookings Institution study says we could electrify half our cars and trucks without building one new power plant if we plug in our cars at night.

(6) Invest in energy research and development. A cost-competitive, 500-mile-range battery would virtually guarantee electrification of half our cars and trucks. Reduce the cost of solar power by a factor of four. Find a way for utilities to make money from the CO2 produced by their coal plants.

(7) Stop pretending wind power has anything to do with reducing America's dependence on oil. Windmills generate electricity—not transportation fuel. Wind has become the energy pet rock of the 21st century and a taxpayer rip-off. According to the Energy Information Administration, wind produces only 1.3% of U.S. electricity but receives federal taxpayer subsidies 25 times as much per megawatt hour as subsidies for all other forms of electricity production combined. Wind can be an energy supplement, but it has nothing to do with ending our dependence on oil.

(8) If we need more green electricity, build nuclear plants. The 100 commercial nuclear plants we already have produce 70% of our pollution-free, carbon-free electricity. Yet the U.S. has just broken ground on our first new reactor in 3o years, while China starts one every three months and France is 80% nuclear. We wouldn't mothball our nuclear Navy if we were going to war. We shouldn't mothball our nuclear plants if we want low-cost, reliable green energy.

(9) Focus on conservation. In the region where I live, the Tennessee Valley Authority could close four of its dirtiest coal plants if we reduced our per capita use of electricity to the national average.

(10) Make sure liability limits are appropriate for spill damage. The Oil Spill Liability Trust Fund, funded by a per-barrel fee on

industry, should be adjusted to pay for clean-up and to compensate those hurt by spills. An industry insurance program like that of the nuclear industry is also an attractive model to consider.

These 10 steps forward could help America grow stronger after this tragic event.

NUCLEAR POWER IS GREEN

Mr. ALEXANDER. Mr. President, hanging in my office in the Dirksen Senate Office Building in Washington, D.C., is a photograph taken forty years ago of President Nixon meeting with Republican congressional leaders in the White House Cabinet Room. Sitting over at the side are two young White House aides, Pat Buchanan and Lamar Alexander, both of us barely thirty years old. I was invited to the meeting because my job then was to help the president with congressional relations. I can distinctly remember the conversation that day.

President Nixon was attempting to persuade Republican leaders that a new environmental movement was coming fast. The members of Congress did not sense this as clearly as the president did. The president turned out to have better antennae than the congressmen did. Our big and complex country, like a big freight train, moves slowly when starting in a new direction, but once going, it moves rapidly and the momentum is hard to stop. This certainly was true of the modern environmental movement during the early 1970s.

We Americans suddenly were falling all over ourselves looking for ways to limit our impact on the planet, looking for cleaner and greener ways of living. 1970 was the year of the first Earth Day. Congress enacted Clean Air and Clean Water laws and created the Environmental Protection Agency. Recycling became as faddish as the hula hoop. All of this made sense to me because growing up in East Tennessee I was raised to appreciate the beauty of our natural environment and the importance of clean water and air. That is why I chaired the President's Commission on Americans Outdoors during the 1980s, and why I spend so much time as a United States Senator working on stronger clean air laws, on stopping mountaintop mining, and on introducing legislation to expand wilderness within the Cherokee National Forest. For me, it has been a lifelong moral imperative to treasure natural resources at the same time we use them responsibly to make our lives more productive.

That is why in a speech in Oak Ridge in May of 2009, I called for America to build 100 new nuclear plants during the next twenty years. Nuclear power produces 70 percent of our pollution-free, carbon-free electricity today. It is the most useful and reliable source of green electricity today because of its tremendous energy density and the small amount of waste that it produces. And because we are harnessing the heat and energy of the earth itself through the power of the atom, nuclear power is also natural.

Forty years ago, nuclear energy was actually regarded as something of a savior for our environmental dilemmas because it didn't pollute. And this was well before we were even thinking about global warming or climate change. It also didn't take up a great deal of space. You didn't have to drown all of Glen Canyon to produce 1,000 megawatts of electricity. Four reactors would equal a row of wind turbines, each one three times as tall as Neyland Stadium skyboxes, strung along the entire length of the 2,178–mile Appalachian Trail. One reactor would produce the same amount of electricity that can be produced by continuously foresting an area one-and-a-half times the size of the Great Smoky Mountains National Park in order to create biomass. Producing electricity with a relatively small number of new reactors, many at the same sites where reactors are already located, would avoid the need to build thousands and thousands of miles of new transmission lines through scenic areas and suburban backyards.

While nuclear lost its green credentials with environmentalists somewhere along the way, some are re-thinking nuclear energy because of our new environmental paradigm—global climate change. Nuclear power produces 70 percent of our carbon-free electricity today. President Obama has endorsed it, proposing an expansion of the loan guarantee program from $18 billion to $54 billion and making the first award to the Vogtle Plant in Georgia. Nobel Prize-winning Secretary of Energy Steven Chu wrote recently in The Wall Street Journal about developing a generation of mini-reactors that I believe we can use to repower coal boilers, or more locally, to power the Department of Energy's site over in Oak Ridge. The president, his secretary of energy, and many environmentalists may be embracing nuclear because of the potential climate change benefits, but they are now also remembering the other positive benefits of nuclear power that made it an environmental savior some 40 years ago.

The Nature Conservancy took note of nuclear power's tremendous energy density last August when it put out a paper on ''Energy Sprawl.'' The authors compared the amount of space you need to produce energy from different technologies—something no one had ever done before—and what they came up with was remarkable. Nuclear turns out to be the gold standard. You can produce a million megawatts of electricity a year from a nuclear reactor sitting on one square mile. That's enough electricity to power 90,000 homes. They even included uranium mining and the 230 square miles surrounding Yucca Mountain in this calculation and it still comes to only one square mile per million megawatt hours.

Coal-fired electricity needs four square miles, because you have to consider all the land required for mining and extraction. Solar thermal, where they use the big mirrors to heat a fluid, takes six square miles. Natural gas takes eight square miles and petroleum takes 18 square miles—once again, including all the land needed for drilling and refining and storing and sending it through pipelines. Solar photovoltaic cells that turn sunlight directly into electricity take 15 square miles and wind is even more dilute, taking 30 square miles to produce that same amount of electricity.

Now these are some pretty big numbers. When people say ''we want to get our energy from wind,'' they tend to think of a nice windmill or two on the horizon, waving gently—maybe I'll put one in my back yard. They don't realize those nice, friendly windmills are now 50 stories high and have blades the length of football fields. We see awful pictures today of birds killed by the Gulf oil spill. But one wind farm in California killed 79 golden eagles in one year. The American Bird Conservancy says existing turbines can kill up to 275,000 birds a year. And for all that, each turbine has the capacity to produce about one-and-a-half megawatts. You need three thousand of these 50–story structures to equal the output of one nuclear reactor. And even then, they only produce electricity about one-third of the time—that's how often the wind blows. At the only wind farm in the Southeast United States, at Buffalo Mountain, the Tennessee Valley Authority says that electricity is only being generated about 19 percent of the time. Based on the wind industry's own numbers, I have estimated that to provide 20 percent of our nation's electricity we would need 25,000 square miles of turbines. That's an area the size of the State of West Virginia. At some point, this stops being picturesque and begins to look like what good environmentalists and conservationists have always fought against—the invasion of precious natural landscapes by industrial civilization. Or, we are destroying the environment in the name of saving the environment.

Most comparisons of wind power to nuclear power are grossly misleading because nuclear is so much more reliable than wind. You'll notice that I said a few minutes ago that a wind turbine produces one-and-one-half megawatts. That would be true if the wind blew all of the time, but of course it blows about one-third of the time, and then only when it wants to, which is often at night when we don't need more electricity. And today, such large amounts of electricity can't be stored. So the Tennessee Valley Authority, whether it is producing wind from its 18 turbines on Buffalo Mountain or buying it from South Dakota, says wind in its portfolio has only a 10 to 15 percent dependable capacity—that is, wind power can be counted on to be there 10 to 15 percent of the time when you need it. TVA can count on nuclear power 91 percent of the time, coal, 60 percent of the time and natural gas about 50 percent of the time. This is why I believe it is a taxpayer rip-off for wind power to be subsidized per unit of electricity at a rate of 25 times the subsidy for all other forms of electricity combined.

Still, people who are genuinely concerned about landscapes and pollution and global warming have argued against nuclear power's green credentials because of the waste. Well, the ''problem of nuclear waste'' has been overstated because people just don't understand the scale or the risk. All the high-level nuclear waste that has ever been produced in this country would fit on a football field to a height of ten feet. That's everything. Compare that to the billion gallons of coal ash that slid out of the coal ash impoundment at the Kingston plant and into the Emory River a year and a half ago, just west of here. Or try the industrial wastes that would be produced if we try to build thousands of square miles of solar collectors or 50-story windmills. All technologies produce some kind of waste. What's unique about nuclear power is that there's so little of it.

Now this waste is highly radioactive, there's no doubt about that. But once again, we have to keep things in perspective. It's perfectly acceptable to isolate radioactive waste through storage. Three feet of water blocks all radiation. So does a couple of inches of lead and stainless steel or a foot of concrete. That's why we use dry cask storage, where you can load five years' worth of fuel rods into a single container and store them right on site. The Nuclear Regulatory Commission and Energy Secretary Steven Chu both say we can store spent fuel on site for 60 or 80 years before we have to worry about a permanent repository like Yucca Mountain.

And then there's reprocessing. Remember, we're now the only major nuclear power nation in the world that is not reprocessing its fuel. While we gave up reprocessing in the 1970s, the French have all their high-level waste from 30 years of producing 80 percent of their electricity stored beneath the floor of one room at their recycling center in La Hague. That's right; it all fits into one room. And we don't have to copy the French. Just a few miles away at the Oak Ridge National Laboratory they're working to develop advanced reprocessing technologies that go well beyond what the French are doing, to

produce a waste that's both smaller in volume and with a shorter radioactive life. Regardless of what technology we ultimately choose, the amount of material will be astonishingly small. And it's because of the amazing density of nuclear technology—something we can't even approach with any other form of energy.

So to answer the question, ''Is Nuclear Green?'' I believe the answer is ''Yes.'' When you compare it with all the problems we face in discovering and mining and burning fossil fuels, when you think of the thousands of square miles of American landscape we're going to have to cover with windmills or solar collectors to get appreciable amounts of energy—when you compare that to the one square mile taken up by a nuclear reactor and comparatively small amount of spent fuel—well, I don't think there's any question about which technology is going to have the least impact on the environment.

And as a group of geophysicists and earth scientists, I know that you appreciate the fact that nothing can be more natural than harnessing the heat of the earth. As we know, energy cannot be created; it is transformed. Potential energy becomes kinetic energy and then the cycle starts over. Nearly all the energy on the earth comes from the sun. Plants and trees are stored solar energy. The energy to sustain animal and human life comes from plants and other animals. Fossil fuels are organic matter that was buried millions of years ago. Wind and hydropower are energy flows set in motion by the sun's heat. Capturing sunlight on your rooftop is the most direct way of tapping solar energy and converting it into electricity.

There is one form of energy, however, that has little to do with the sun. Deep within the earth the temperature rises to as much as 7,000 degrees Celsius. Much of that heat comes from the breakdown of two elements—Uranium and Thorium. We can tap into the earth's natural heat by using the steam that rises naturally out of the earth at geysers and fumaroles to create electricity. Dig deep enough anywhere on earth and you will encounter geothermal energy.

When we generate power with a nuclear reactor, we just replicate this naturally occurring process that already goes on deep within the earth. We just do it in an accelerated, controlled way and harness the heat that is produced for our own use. We gather through mining naturally occurring uranium, purify and concentrate and maybe enrich it, and then arrange it in such a way as to greatly speed up a process that would have happened anyway—which is the fissioning of Uranium 235. We can then use the heat to boil water and produce electricity.

But even this accelerated reaction is not entirely unique to our engineered nuclear reactors. Two billion years ago, in the country of Gabon in uranium deposits in the Oklo region, a lucky combination of hydrology and bacteria converted some natural uranium deposits into a nuclear reactor that ran for what was probably hundreds of thousands of years. Scientific American reported a few years ago that these natural reactors probably released, over a period of thousands of years, the same energy that the Watts Bar reactor produces in a decade—which is to say a huge amount of power. It's interesting to note that two billion years after those reactors shut off, the world is still here and life still evolved, even though the waste from those reactors wasn't contained and Greenpeace wasn't there to picket.

So nuclear power is as natural as sunlight. It comes from the same source that heats the earth's core. It is a lot more efficient than converting sunlight into electricity or the process of converting sunlight into energy for plant life. The beauty of nuclear power is that we are able to increase the efficiency of this energy source in our reactors and ultimately create electricity that produces very little waste.

I believe nuclear is green. I believe it is natural. I believe it's the best thing that could have happened to the environment to provide the low-cost, reliable, green energy that America needs for the 21st Century.

Mr. ALEXANDER. Thank you, Mr. President. I yield the floor.

The PRESIDING OFFICER (Mr. UDALL of New Mexico). The Senator from Nebraska.

EXTENDER ALTERNATIVE

Mr. JOHANNS. Mr. President, I rise today in support of an alternative approach to the extenders legislation. The Thune amendment is a very simple, if not a novel idea in Washington these days. The novel idea is that it would actually pay for the spending proposed in the bill—all of it. Furthermore, it doesn't raise harmful taxes on the job creators of this country to pay for temporary tax relief. It does not raise taxes temporarily, nor does it raise taxes permanently, as the underlying bill proposes to do.

To illustrate the difference between the Thune amendment and the Baucus substitute, I will share a USA TODAY editorial from May 25, 2010. I am quoting:

> Now it's time to start making choices about what's vital, and for those programs that are paying the bills instead of borrowing.

I could not agree more with that editorial.

The alternative is a good first step on the road to fiscal responsibility. We all noted recently that our national debt has reached $13 trillion, and as alarming as that milestone is, we are actually on pace to double that by 2020. For 2010 alone, the United States is expected to run an annual deficit of $1.6 trillion—1 year. Next year isn't much better with a projected deficit of $1.3 trillion. Total U.S. Government debt is near 100 percent of gross domestic product. Let me say that again. Our debt is near 100 percent of our entire gross domestic product. According to the Congressional Budget Office, net interest on publicly held debt would more than quadruple between 2010 and 2020, rising from $209 billion in 2010 to $916 billion in 2020. These are sobering figures. We should be under no illusions that the road to fiscal responsibility will be anything but a hard job, but we have to start somewhere. It just isn't acceptable to kick the can down the road and continue to deem all of our spending as an emergency.

As the USA TODAY editorial noted:

> None of these needs suddenly popped up yesterday. The dictionary defines emergency as: ''a sudden, generally unexpected occurrence.'' In Congress-speak, though, an emergency is something you don't want to pay for.

The amendment fully offsets the spending and tax relief provisions by enacting a series of responsible initiatives such as rescinding unobligated stimulus funds; cutting $100 million out of Congress's budget; cutting wasteful and duplicative government programs—640 different instances are identified in the amendment; freezing Federal Government salaries; capping the hiring of Federal employees; cutting the budgets of Federal agencies by 5 percent—something the President and OMB Director Peter Orszag outlined on Monday; and selling unused government property and real estate.

I wish to be clear about something. Even I support some of these programs that are targeted. However, we are in a dire fiscal situation that calls for significant contributions from everyone. Government cannot be all things to all people, and some reductions must be made because it is very clear by any economist's definition that this spending is not sustainable.

We must examine our government spending and weed out the lowest priorities. We must make hard choices. That is why we are sent here. But that means establishing priorities and having the courage to make those decisions. Just look at the recent study by the Bank for International Settlements. It ranks the United States of America fourth in general government debt among developed countries, ranking only behind Greece—which is getting a lot of attention these days—Italy, and Japan. Being ranked No. 1 is not a goal we should be working to achieve, but that is certainly where we are headed if we keep spending over 40 percent more than revenues are bringing in. If we want our children and our grandchildren to have any chance at a prosperous future, we must start to make tough decisions today.

As I mentioned, another reason to support the alternative is that it does not contain tax increases. Let's take a look at the tax increases contained in the Baucus substitute. We have higher taxes on carried interest, new taxes on S corporations, and harmful retroactive taxes on other parts of the economy.

Punishing job creators with tax increases that will only stifle growth, expansion, and investment is not the recipe for success. Nearly 10 percent unemployment is high enough. Congress should not be adopting policies that will push it higher. Yet, ironically, only here in Washington would this bill be titled a ''jobs bill.'' Plus, only in Washington, DC, does it make sense to pay for temporary, short-term extensions of tax relief with permanent tax increases. Is it any wonder so many business groups that typically support tax relief are opposed to the Baucus bill? On one hand, they need the tax relief for the rest of the year, but at the high cost of paying more taxes permanently, many are saying: Thank you, but no thanks.

Finally, the bill increases the taxes oil companies are required to pay into the Oil Spill Liability Trust Fund from 8 cents to 41 cents—a fivefold increase.

At first glance, this seems reasonable given the disastrous environmental mess that is occurring in the gulf. But in this bill, the money is being used to pay for new, unrelated, more government spending.

My friends on the other side of the aisle claim the money will stay in the fund, but you can't have it both ways. You can't claim to be using the money both for gulf cleanup and to finance other spending. To do both would add an additional $15 billion to our national debt beyond what is being claimed. It is a lot like the health care bill which pays for new entitlement by siphoning $½ trillion in the Medicare trust fund. Its backers claim to be strengthening the trust fund, but they are double-counting the money. The extenders bill pays for new spending by siphoning $15 billion from the oilspill cleanup funding.

This amendment offers Senators a choice between increasing our national debt when the country is crying out for fiscal responsibility versus paying for what we spend without increasing taxes or increasing the deficit—making hard choices.

I am fully aware some will come to the floor criticizing the amendment, making all sorts of claims, but I disagree. The amendment attempts to make tough choices, rational choices. We have to start somewhere.

I urge my colleagues to support the Thune amendment.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

GULF VISIT

Mr. CARDIN. Mr. President, this past Friday I had the opportunity to travel to the Gulf of Mexico along with three of our colleagues, including Senator MIKULSKI, my colleague from Maryland, Senator VITTER from Louisiana, and Senator MERKLEY from Florida. All of us know the importance of coasts. We represent coastal States, and we know how important it is to our economy, and we know how important it is to our way of life. I know Senator VITTER represents that area.

We wanted to visit and see firsthand the impact the BP oilspill is having on the communities in the Gulf of Mexico. I must tell my colleagues, seeing it firsthand, one can really start to understand the magnitude of this disaster. One can see the horrific impact it is having on the people of that region, and one can see the anger in their eyes and the desperation of people who are no longer working, and one can see the oil. You can see the oil all over. You can see it in the water. You see it in the marshes. You see it on the coast. It is a horrible thing to see.

We visited the area known as the Grand Isles. The Grand Isles is a beach area not too far from New Orleans. Grand Isles is a beach community. It is a city. It reminds me a little bit of Ocean City, MD. I was just thinking of how the people of Maryland would be responding if they knew Ocean City would not be open for the season. When we saw the area of Grand Isles, it was empty. No one was on the beaches. There were some people on the beaches working, cleaning up, but no tourists, no people, no children enjoying the water. You couldn't go into the water. The disaster is having a horrible impact on the economy of not just Grand Isles but the entire region.

We then had a chance to go by boat to see Queen Bess Island and Pelican or Bird Island, which are two of the major islands that are used by birds for nesting. We saw oil. We saw oil on the booms that had been deployed. We saw oil on the rocks on the island itself, and, more tragically, we saw birds that were covered with oil. This should never have happened.

I think it just strengthened our resolve about the priorities we must have in this Senate, the priorities that government must follow. The first, of course, is to stop the flow at the wellhead because oil is gushing out into the Gulf of Mexico. What we saw, of course, is oil that had been in the water for many days, had degraded but was still guck and still deadly to birds and certainly deadly to the economy of the region. But oil is still coming out at the wellhead.

Let me remind my colleagues that BP has tried many ways of stopping that oil from coming into the gulf. Of course, as the Presiding Officer knows from the hearings we have had in the Environment and Public Works Committee, BP said they had proven technology to deal with any of these types of spills. Well, that proven technology doesn't exist. They are trying to on the fly determine how to deal with the oil.

So now they have a process of capturing the oil that will bring in 18,000 barrels a day. Remember, BP said originally it was a 1-barrel-a-day incident, and then they increased it to 5,000 barrels a day. We now know it is closer to 40,000 barrels a day. The technology they are deploying will recover about 18,000 barrels.

They hope to be able to increase that perhaps 5,000 to 10,000 barrels, still leaving tens of thousands of barrels gushing into the Gulf of Mexico, and it will continue for several months until the relief wells are drilled. That is the current status.

Our priority, of course, is to stop the wellhead but also to contain the damages. Oil appears sometimes unexpectedly at different locations. So the game plan has to use the best technologies we have with booms and skimmers to keep the oil from reaching sensitive areas.

Admiral Watson, the Coast Guard Command, reviewed the strategy with us. While we think it is important for the command to set performance standards for BP across the board, we also think we have to have the right organizational structure.

Let me just mention one point that was troubling to us. Yes, we saw booms that had been deployed, but they were not maintained. If they are not maintained, oil gets to the shore, killing birds and killing our environment. We have to make sure that is corrected. I thank Admiral Watson. He got back to me Saturday night. We had a conversation, along with Senator BOXER, and steps are being changed. That is why we have to have performance standards on BP oil. We have to make sure we are in control, as to making sure all technologies are deployed to protect our environment. Then, yes, we have to hold BP fully accountable for all of the damages.

We all talk about how they have to be fully accountable. But let's remind the public that BP, in getting the permit to drill, said they had proven technology to deal with any type of incident. They were not truthful on that statement. They didn't have that. So they have to be held fully accountable. We are talking about criminal investigations that will go where they may. But they clearly have to pay all of the economic and environmental damages. The economic damages are clear. We have talked to fishermen who aren't fishing this season, and they don't know if they will ever go back to fishing. We talked to one fisherman whose family has been in that business for generations. We talked to shop owners where there was nobody in the shop. We saw charter boat owners who cannot operate. BP has to be accountable to these small business owners and the property owners.

I strongly support the effort of our majority leader and the President to have BP put money into a trust fund, with independent trustees, so we can expedite the process. It doesn't do a business owner any good if he has a long list of documents he has to fill out to get the help he needs in order to keep his business afloat. Those who were victimized need to be able to get relief as soon as possible. I think an escrow fund makes a lot of sense, and $20 billion seems like a reasonable start. I hope we will move forward. I know the President is meeting with the CEO of BP Oil on Wednesday. Tomorrow, I hope that will lead to the resolution of that issue.

Let me point out that BP also has to be held responsible for the environmental damages that will go well beyond the Gulf of Mexico. The Loop Current is bringing the oil around the Keys and to the east coast of the United States. It will affect many regions, including mine in the Mid-Atlantic. Many of our migratory wildlife travel through the gulf. We don't know whether they will be returning to Maryland. We don't know the impact it will have on our wildlife population—those who enjoy hunting and bird watching on the Eastern Shore, those who understand the importance of the diversity of our wildlife—whether we will be endangering different species. We need to document that and mitigate it.

I have the honor of chairing the Water and Wildlife Subcommittee of the Environment and Public Works Committee. We are holding hearings, thanks to Senator BOXER, next month to start the accounting process, to make sure there is an independent, objective accounting as to the full damages that BP has caused and its related organization—economic damages and environmental damages. Then, going forward with drilling, we all understand mineral management is a critical part of our energy strategy. We cannot drill unless we have an independent agency issuing the permits. We have to make sure the public's interest is protected as new permits are granted.

Yes, there are areas where we don't drill today because they are environmentally too sensitive and there is not enough oil to make it worth the risk. I include in that the area I represent in the Mid-Atlantic, where there was a site they were going to move forward with drilling just 50 miles from Assateague Island, just 60 miles from the mouth of the Chesapeake. If we would have had a spill a fraction of the amount that occurred in the gulf, with the prevailing winds and currents, it would have a devastating impact on the Chesapeake Bay and the beaches of Maryland and also Delaware and Virginia. It is not worth the risk. The oil is not significant enough there for that.

Lastly, I hope we use this opportunity, as President Obama suggested, to move forward with a new energy policy for our country. We need to rely less on oil and more on alternative and renewable energy sources. I agree we need to do more with nuclear power. We need to consume less energy and improve the way we operate our buildings and the way we manage our transportation systems. We need to become energy independent, and we can do that. But we cannot do it through drilling. We can do it through a comprehensive energy policy so we can protect our national security and create jobs in America rather than exporting those jobs overseas and, yes, so that we can protect our environment from the type of disaster that has occurred in the Gulf of Mexico. I hope that is how we respond.

My trip to the gulf reinforced my efforts, and I hope the efforts of all my colleagues, to say that we can do things better. Let's clean up this mess, let's hold BP responsible, and let's develop an energy policy that will protect America's security, help our economy, and protect our environment.

With that, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

EXECUTIVE SESSION

NOMINATION OF TANYA WALTON PRATT TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF INDIANA

NOMINATION OF BRIAN ANTHONY JACKSON TO BE UNITED STATES DISTRICT JUDGE FOR THE MIDDLE DISTRICT OF LOUISIANA

NOMINATION OF ELIZABETH ERNY FOOTE TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF LOUISIANA

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to consider the following nominations, which the clerk will report.

The assistant legislative clerk read the nominations of Tanya Walton Pratt, of Indiana, to be United States District Judge for the Southern District of Indiana; Brian Anthony Jackson, of Louisiana, to be United States District Judge for the Middle District of Louisiana; Elizabeth Erny Foote, of Louisiana, to be United States District Judge for the Western District of Louisiana.

The PRESIDING OFFICER. Under the previous order, there will be 20 minutes for debate concurrently on the nominations, which will be equally divided and controlled between the Senator from Vermont, Mr. LEAHY, and the Senator from Alabama, Mr. SESSIONS, or their designees.

The Senator from Vermont is recognized.

Mr. LEAHY. I thank the distinguished Presiding Officer. Today, the Senate is being allowed to confirm only a few more of the 28 judicial nominations that have been reported by the Senate Judiciary Committee over the past several months, but which have been stalled by the Republican leadership. We have yet to be allowed to consider nominations reported last November. In addition to the three nominations being considered today, there are another 17 judicial nominations available that were all reported unanimously by the Judiciary Committee. There is no excuse and no reason for these months of delay. The Senate Republican leadership refuses to enter into time agreements on these nominations. This stalling and obstruction is unprecedented.

The Senate is well behind the pace I set for President Bush's judicial nominees in 2001 and 2002. By this date in President Bush's Presidency, the Senate had confirmed 57 of his judicial nominees. Despite the fact that President Obama began sending us judicial nominations 2 months earlier than did President Bush, the Senate has to date only confirmed 28 of his Federal circuit and district court nominees. After today's 3 confirmations, the comparison will stand at 31 to 57, which is barely half of what we were able to achieve by this date in 2002. Another useful comparison is that in 2002, the second year of the Bush administration, we confirmed 72 Federal circuit and district judges. In this second year of the Obama administration, we confirmed 16 so far. In fact, our Senate Republicans have allowed so few nominees to be considered that in 1 hour today, the Senate is going to have three confirmations. That will increase our judicial confirmations for the year by almost 20 percent. Meanwhile, Federal judicial vacancies around the country hover around 100.

This is the second year of the Obama administration. Although vacancies have been at historic highs, Senate Republicans last year refused to move forward on judicial nominees. The Senate confirmed the fewest in 50 years. The Senate Republican leadership allowed only 12 Federal circuit and district court nominees to be considered and confirmed despite the availability of many more for final action. They have continued their obstruction throughout this year. Only 16 Federal circuit and district court nominees have been confirmed so far this year, although another 28 have been reported favorably by the Judiciary Committee.

About a week or so ago, three distinguished women were confirmed by virtually unanimous votes. These nominees were reported unanimously by the Senate Judiciary Committee back in March; all Democrats and Republicans voted for them. These three distinguished women put their lives on hold and were still held up for months before they were allowed to be confirmed.

To put these delays into historical perspective, consider this: In 1982, the second year of the Reagan administration, the Senate confirmed 47 judges. In 1990, the second year of the George H.W. Bush administration, the Senate confirmed 55 judges. In 1994, the second year of the Clinton administration, the Senate confirmed 99 judges. In 2002, the second year of the George W. Bush administration, the Senate confirmed 72 judges. The only year comparable to this year's record-setting low total of 16 was 1996, when the Republican Senate majority refused to consider President Clinton's judicial nominees and only 17 were confirmed all session.

Senate Democrats moved forward with judicial nominees whether the President was Democratic, as in 1994, or Republican, as in 1982, 1990, and 2002, and whether we were in the Senate majority, as we were in 1990, 1994, and 2002, or in the Senate minority as in 1982. Senate Republicans by contrast have shown an unwillingness to consider judicial nominees of Democratic Presidents. They did in 1996, 2009, and 2010.

Over the last recess, I sent a letter to Senator MCCONNELL and to the majority leader concerning these matters. In that letter, I urged, as I have since last December, the Senate to schedule votes on these nominations without further obstruction or delay. I called on the Republican leadership to work with the majority leader to schedule immediate votes on consensus nominations—many, like those finally being considered today, I expect will be confirmed unanimously—and consent to time agreements on those on which debate is requested. As I said in the letter, if there are judicial nominations that Republicans truly wish to filibuster—after arguing during the Bush administration that such action would be unconstitutional and wrong—then they should so indicate to allow the majority leader to seek cloture to end the filibuster.

The three nominees being considered today were all reported unanimously by the Judiciary Committee way back in March. They could have been confirmed, they should have been confirmed long before now.

They are supported by their home State Senators. I note that in all three cases, that means both a Democratic Senator and a Republican Senator.

Judge Tanya Walton Pratt has been nominated to serve as a Federal district court judge in the Southern District of Indiana. If confirmed, Judge Pratt will be the first African-American Federal judge in Indiana history. The Judiciary Committee reported her nomination favorably without dissent on March 4, more than 3 months ago. Judge Pratt is currently a Marion County Superior Court judge where she has served since 1997. The substantial majority of the ABA rated Judge Pratt ''well qualified'' to serve on the U.S. District Court Southern District of Indiana. She has 17 years of judicial experience and has the support of both home State Senators, Republican Senator LUGAR and Democratic Senator BAYH.

Brian Jackson's nomination to the U.S. District Court for the Middle District of Louisiana was reported by voice vote by the Judiciary Committee on March 18, nearly 3 months ago, and has the support of both home State Senators, Democratic Senator LANDRIEU and Republican Senator VITTER. The ABA Standing Committee on the Federal Judiciary unanimously rated Mr. Jackson well qualified to be a U.S. District Judge for the Middle District of Louisiana, its highest possible rating. If confirmed, Mr. Jackson will be the second African-American judge to serve on the district court in the Middle District of Louisiana.

The nomination of Elizabeth Erny Foote to a seat on the United States District Court for the Western District of Louisiana also has the support of Senator LANDRIEU and Senator VITTER. Ms. Foote has worked for the past 30 years in private practice at The Smith Foote Law Firm in Alexandria, LA, after clerking for Judge William Culpepper of the Louisiana Third Circuit Court of Appeals. When she began her legal practice in Alexandria, she was only the fourth woman ever to do so. Her nomination was reported favorably by the Judiciary Committee by voice vote with no dissent on March 18 and has been awaiting Senate action ever since.

I congratulate the three of them and predict all three will be confirmed.

Mr. President, I ask unanimous consent that I be able to use my remaining time as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOMINATION OF ELENA KAGAN

Mr. LEAHY. Mr. President, our Nation recently celebrated Memorial Day, honoring the sacrifice and the service of our brave men and women in uniform. Yesterday was Flag Day, and before too long we will celebrate the Fourth of July.

I wish to speak about Solicitor General Elena Kagan's nomination to the Supreme Court. I thought it might be good to set the record straight about some of the charges being leveled at President Obama's nominee to the Supreme Court, Solicitor General Elena Kagan. Those intent on opposing this nomination—just as they seem to undercut the President no matter what he does—have searched high and low to find a basis to oppose this intelligent and accomplished nominee.

I understand the partisanship, but I disagree with it. A Supreme Court nominee is there for all the country, not for one political party or the other, and most nominees will serve long after the Senators who voted for the nominee are gone.

I do not think it is good for the country to make it this partisan. After the American people elected President Obama, leaders of the Republicans urged massive resistance from the outset. They have talked about wanting him to fail and have done everything they could to undermine his efforts to rescue our economy from the worst downturn since the Great Depression, to reform health care for all Americans, to lower taxes for Americans making less than $250,000 a year and to reform Wall Street so that we never again suffer the kind of greed and profiteering that put our economy at risk.

When the Senator from Alabama became the ranking Republican on the Senate Judiciary Committee last year, he lamented the way nominees were treated. He said:

> What I found was that charges come flying in from right and left that are unsupported and false. It's very, very difficult for a nominee to push back. So I think we have a high responsibility to base any criticisms that we have on a fair and honest statement of the facts and that nominees should not be subjected to distortions of their record.

I agree with that statement and very much regret the distortion of Dean Elena Kagan's record as dean of the Harvard Law School. No one should have attacked her unfairly for following the law while seeking to honor Harvard's nondiscrimination policy. No one should be misrepresenting her views and smearing her character or questioning her commitment to our men and women in uniform. Yet that is what has been happening repeatedly since her nomination.

In fact, some of these same smears were considered last year in connection with her nomination to be Solicitor General. She received a bipartisan vote of approval then. I was hoping that would put it to rest. Instead, some continue to accuse her of an anti-military bias and violating the law. They say that she ''barred the U.S. military from coming on the Harvard Law School campus,'' that she ''kicked the military off Harvard's campus,'' that she ''disregard[ed] the law . . . in order to obstruct military recruitment during a time of war,'' that she was punishing and taking actions against our military men and women, that she condemned the U.S. military, that she acted in a way that was ''not lawful,'' and that she ''violated the law.'' That is incorrect. I would have thought, and certainly had hoped, that since the facts are known, these misstatements would not be repeated. Regrettably, this has not been the case.

The unfair attacks that have been leveled at this nominee are all the more reason for her to have a chance to respond. Anyone who has a sense of fairness would not be raising questions and contending they still have concerns while at the same time seeking to delay her an opportunity to respond. Those who have been all too willing to attack this nominee during the last four weeks, and who purport to know her thoughts and her heart, should not be seeking to delay her opportunity to set the record straight and defend her character and good name. Those who unfairly characterize her as anti-military and, in effect, anti-American and unpatriotic, owe her the opportunity to respond. And she will this month when we have our hearings.

Let's be clear on the facts. Dean Kagan did not ban the military from Harvard's campus. Harvard's students always had access to military recruiters. The facts are that military recruitment remained steady throughout Dean Kagan's tenure, it even increased during the brief time that the military was restricted from using Harvard's Office of Career Services, OCS. Unfortunately, these facts will not prevent some critics from claiming that she kicked military recruiters off campus when she did no such thing. This is not debatable.

What is debatable is the wisdom of the ''Don't Ask, Don't Tell'' policy. In my opinion, the ''Don't Ask Don't Tell'' policy forces good and capable people to choose between compromising their integrity and being barred from military service. At a time when we need a strong and skilled military more than ever, our existing policy

makes the Armed Forces less effective. As Admiral Mullen, Chairman of the Joint Chiefs of Staff, recently said, ''allowing gays and lesbians to serve openly would be the right thing to do.'' I agree. The current policy needlessly robs our Armed Services of the talents and commitment of countless people, and it should be changed. Every member of our military should be judged solely on his or her contribution to the mission, without regard to sexual orientation. Rejecting the discrimination that results from the ''Don't Ask Don't Tell'' policy is long overdue.

Does this statement here on the floor of the Senate make me anti-military? Of course not. Does Admiral Mullen's position on the policy make him anti-military? Of course not. He is a distinguished four-star admiral. Did Dean Kagan's comments on the policy render her anti-military? Not on your life. Anyone at all familiar with her record knows better. Veterans from Harvard Law School have come to her defense. They know and recall her support of them and their service to the country. They know of the dinners and meetings she held with veterans.

I am confident that a fair reading of her record will show she was supportive of our military, our veterans, and Harvard law students who wished to serve in the military. So let's stop the misstatements and the overheated rhetoric. Let's show her the respect she deserves.

In her speech at West Point 3 years ago, Dean Kagan spoke of being in awe of the courage and the dedication of those who were preparing for the military. She went on to speak directly to the issue, saying:

> I have been grieved in recent years to find your world and mine, the U.S. military and U.S. law schools at odds, indeed, facing each other in court on one issue. That issue is the military's ''don't ask, don't tell'' policy. Law schools, including mine, believe that employment opportunities should extend to all their students, regardless of their race or sex or sexual orientation. And I personally believe that the exclusion of gays and lesbians from the military is both unjust and unwise. I wish devoutly that these Americans could join this noblest of all professions and serve their country in this most important of all ways. But I would regret very much if anyone thought that the disagreement between American law schools and the U.S. military extended beyond this single issue. It does not. And I would regret still more if that disagreement created any broader chasm between law schools and the military. It must not because of what we, like all Americans, owe to you.

Hers were not the words of someone who is anti-military. There should be no place in America for discrimination. We ask our troops to protect freedom in places around the globe. It is time to protect the basic freedoms and equal rights at home.

I commend the House of Representatives for passing legislation just last month to end this discriminatory policy, and the Senate Armed Services Committee for doing so, as well. Congress is moving forward to adopt the policy of nondiscrimination that Harvard Law School had adopted and that Dean Kagan supported. I have long supported similar legislation in the Senate. I believe this is an important issue worthy of an up-or-down vote by the Senate. Regrettably, like so many steps forward in legislation to protect equality throughout our history, the repeal of this discriminatory policy will likely be filibustered by a recalcitrant minority.

I also find it ironic that those Republican Senators most critical of the nominee have filibustered and voted against funding for our troops and against services for our veterans. When the American people hear a Republican Senator criticizing Elena Kagan's respect and support for the military, they might ask whether that Senator filibustered the National Defense Authorization Act for fiscal year 2010. Led by the Republican leadership, more than 30 Republican Senators did. Even after their filibuster was defeated, most Republican Senators proceeded to vote against the bill and the authorities it provided our military. Likewise, when the Senate considered the consolidated appropriations bill to provide funding for veterans and military construction, again led by the Senate Republican leadership, more than 30 Republican Senators sought to filibuster and stall that funding. Even when their filibuster was broken, more than 30 Republican Senators voted against that bill to provide the necessary funding for services to our veterans.

Also obscured by the blinders worn by her critics are the following facts: Harvard Law School adopted its nondiscrimination policy in 1979, long before Elena Kagan ever attended Harvard Law School as a student let alone before she became an acting professor and ultimately its Dean. Like almost every other law school in America, Harvard requires employers to sign a statement that they do not discriminate. Only after an employer confirms its nondiscrimination employment policy and hiring practice can the employer use the logistical assistance of the Harvard Law School's Office of Career Services. This office merely facilitates recruitment by scheduling interviews and distributing student resumes to employers. It does not provide physical space on campus for employers to conduct interviews. In fact, private law firms typically conduct interviews off campus.

In 1994, Congress adopted the ''Don't Ask, Don't Tell'' policy as part of the National Defense Authorization Act. This law prohibited gays and lesbians from serving openly in our military. Two years later, in 1996, Congress passed the so-called ''Solomon Amendment'' as part of the National Defense Authorization Act. This statute allows Federal funds to be denied to universities that have ''a policy or practice'' that ''prohibits, or in effect prevents'' the military's access to students on campuses for purposes of military recruiting. In order to deny Federal funds under the Solomon amendment, the Secretary of Defense must determine that a university has such a policy or practice, ''transmit a notice [of such determination] . . . to Congress'' and ''publish in the Federal Register a notice of the determination and the effect of the determination on the eligibility of the [university] for contracts and grants.''

The Solomon amendment did not directly prohibit a law school from applying its nondiscrimination policy to military recruiters. It did not make such an action a crime. The Solomon amendment gave institutions a choice between satisfying the Secretary of Defense's requirements on military recruitment or risk foregoing certain Federal funds. Senator SESSIONS acknowledged this very point when he said last year, ''well, let me say, that amendment didn't order any university to admit anybody or to allow anybody to come on campus.'' In fact, it is not a criminal statute but an attempt to use the threat of a Federal funding cutoff as leverage.

In 1998, the Air Force determined that Harvard's alternative arrangement for military recruitment facilitated by the HLS Veterans association, in lieu of OCS, complied with the Solomon amendment. In 2002, under the Bush administration, the Air Force reversed course and enter into a new and contradictory determination that the arrangement no longer satisfied the Solomon amendment. It threatened Dean Robert Clark, a Republican and Dean Kagan's predecessor, with a cutoff of millions of dollars. In response, Dean Clark ''regrettably'' allowed military recruiters to use OCS while continuing to emphasize his strong opposition to ''Don't Ask, Don't Tell.''

In 2003, Solicitor General Kagan became the first woman to serve as dean of the Harvard Law School when she succeeded Dean Clark. For the first few years in this position she maintained the law school's nondiscrimination policy that all employers, with the sole exception of the military, had to follow to use the Office of Career Services. She continued to allow the military access to OCS, despite the fact that it could not sign a nondiscrimination statement. However, she also repeatedly voiced her opposition to the ''Don't Ask, Don't Tell'' policy, as Dean Clark had, calling it ''a moral injustice of the first order.''

Also in 2003, the Forum for Academic and Institutional Rights, Inc., FAIR, an association of law schools, began a lawsuit challenging the Solomon amendment and seeking a preliminary injunction enjoining its enforcement. On November 5, 2003, the district court denied the injunction and FAIR appealed to the court of appeals for the Third Circuit. On January 12, 2004, in her capacity as a law professor, Dean Kagan joined more than 50 other Harvard law professors to support an amicus brief backing FAIR's appeal to the

Third Circuit. Unlike FAIR, which argued that the Solomon amendment violated the first amendment, the brief she joined made the more modest argument that the Department of Defense had misinterpreted the law. The amicus brief argued: (1) that the Solomon amendment did not apply to generally applicable nondiscrimination policies, like Harvard's, that did not specifically target the military; and (2) it only required that schools give military recruiters ''entry'' and ''access,'' not necessarily equal access.

Noting the confusion surrounding the legal requirements of eligibility for Federal funding under the Solomon amendment, Congress amended the statute in October, 2004. The effect of those changes was not settled until the Supreme Court decided the case in 2006.

On November 29, 2004, the Third Circuit concluded, 2–1, in an opinion joined by Reagan appointee Judge Walter Stapleton, that the ''Solomon Amendment violates the First Amendment by impeding the law schools' rights of expressive association and by compelling them to assist in the expressive act of recruiting.'' The Third Circuit's opinion did not address the Harvard law professors' amicus brief.

From the beginning of her tenure until November 30, 2004, Dean Kagan had allowed the military to use OCS. Only after the Third Circuit concluded that the Solomon amendment was unconstitutional did Dean Kagan return to Harvard's prior policy of excluding the military from OCS. However, like her predecessors, Dean Kagan continued to allow military recruiters entry to the campus and facilitated interviews on campus through the HLS Veterans Association. This special arrangement was in place only for a few months in 2005.

In May 2005, the Supreme Court agreed to review the Third Circuit's decision. During that summer, while the government appeal was pending, the Pentagon informed Harvard University that its Federal funds were in jeopardy if it continued to restrict military recruiters from OCS services. The Pentagon never notified Congress nor published in the Federal Register that Harvard was not compliant with the Solomon amendment.

On September 20, 2005, Dean Kagan reinstated the military's exception from Harvard's nondiscrimination policy and again granted it access to OCS. Dean Kagan's decision to lift the military's restriction from OCS was long before the Supreme Court held oral argument on December 6, 2005, or decided the case.

The day after reinstating the military's use of OCS, Dean Kagan was one of 40 Harvard law professors to sign onto an amicus brief to the Supreme Court. As they did before the Third Circuit, the Harvard law professors argued that the Pentagon had misinterpreted the Solomon amendment and that properly read, the amendment ''rules out policies that target military recruiters for disfavored treatment, but it does not touch evenhanded anti-discrimination rules that incidentally affect the military.'' The Supreme Court rejected their argument. On March 6, 2006, the Supreme Court also reversed the Third Circuit and upheld the constitutionality of the Solomon amendment.

Let's be clear. She did not break the law. She did not violate the law. She did her best to follow the law, even a law that led to discriminatory consequences with which she strongly disagreed. She engaged in legal action and participated in a legal challenge to the interpretation and application of the law by the Bush administration and reversed an earlier interpretation by the Air Force. Yet this legal action is what some now claim amounted to illegal conduct. That is incorrect.

Recently there was an op-ed in the Washington Post by Walter Dellinger dated May 14, 2010, that discusses this issue. Mr. President, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, May 14, 2010]

HOW I KNOW KAGAN ISN'T ANTI-MILITARY

(By Walter Dellinger)

The nomination of an anti-military leftist to the Supreme Court would make for a riveting story. But in the case of Elena Kagan, it's just not true.

When Kagan became dean of Harvard Law School in 2003, Harvard, like virtually every other law school, had a long-standing policy that the assistance of its placement office was available only to employers that would interview and consider hiring any student. Employers that insisted on ''pre-screening'' students for high grades or other criteria were not eligible for the school's placement assistance, nor were recruiters who declined to hire students on the basis of race, sex, religion or sexual orientation. The placement office, in other words, is there to serve the career aspirations of all students.

Under Kagan's predecessor at Harvard, the highly respected corporate scholar Robert C. Clark, military recruiters acknowledged that they were not able to comply with the school's generally applicable anti-discrimination policy and could not use the placement office's services. In 2002, the Bush administration asserted that a federal provision called the Solomon Amendment required the law school to grant military recruiters an exemption from its anti-discrimination policy. Faced with a threatened cutoff of federal funds to the whole university, Clark announced that the placement office would begin assisting military recruiters. When Kagan became dean in 2003, she continued this practice.

In November 2003, the U.S. Court of Appeals for the 3rd Circuit held that the Solomon Amendment was unconstitutional, which meant there was no longer an enforceable, federally mandated exception to the law school's anti-discrimination policy. Kagan announced that military recruiters were once again ineligible for assistance from the school's placement office. In the fall of 2004, after the Justice Department challenged the 3rd Circuit decision and the Supreme Court agreed to review the lower court's ruling, Kagan announced that the school would once again comply with the government's demand for placement-office support for military recruiters.

On the basis of this unremarkable application of an established anti-discrimination policy, Kagan has been accused of harboring an ''anti-military'' animus. Some critics have falsely equated Harvard's anti-discrimination policy with the anti-military and anti-ROTC policies favored by some campus leftists in the 1970s. Those policies, however, were categorically different: They were directed at the military. In contrast, the anti-discrimination policies applied before, during and after Kagan's tenure as dean were in no way intended to single out the military but were applied in an evenhanded way to all prospective employers.

It was also far from clear that Harvard even violated the Solomon Amendment. That law withheld federal funding from any school that has a policy of denying military recruiters access to the campus ''in a manner equal in quality and scope'' to other recruiters. Neither the text of the law nor its history (targeting anti-ROTC and anti-military rules) compelled the conclusion that the law was violated by an anti-discrimination policy applicable to all recruiters.

When some groups challenged the constitutionality of the Solomon Amendment, Kagan joined a majority of her faculty colleagues in a friend-of-the-court brief that I drafted as their counsel, urging the court to exercise judicial restraint and avoid ruling on the constitutional issue by simply holding that it was not clear that Congress intended to preclude the evenhanded application of anti-discrimination policies. There were no dissents from the chief justice's opinion dismissing this statutory argument. We knew that it would be a difficult sell for the court because the actual party to the case wanted to seek a constitutional ruling, a course we thought imprudent and unwise. As the oral argument showed, a number of justices thought the Harvard brief raised a very serious question. For today's debate, the key point about the brief that Kagan joined is that it urged a prudent course, arguing that ''sound principles of judicial restraint counsel that this Court should resolve the question of statutory coverage before turning, only if necessary, to constitutionality.''

No action Kagan took as dean remotely suggests anything but the greatest respect for the military. Even when the law school's anti-discrimination policy effectively precluded placement-office assistance to military recruiters, she permitted student veteran groups to use law-school premises to facilitate military recruitment of Harvard students. At no point were military recruiters ever barred from the campus or banned from recruiting Harvard law students. And military veterans who entered Harvard Law School when Kagan was dean have praised her efforts to ensure they were welcomed and respected for their service.

Separately, it is true that as dean, Kagan expressed strong personal opposition to the ''don't ask, don't tell'' restrictions on service by gays and lesbians in the military. But that is not an anti-military position. Rather, it is the position now shared by many senior military leaders and the commander in chief.

Mr. LEAHY. Finally, I find it ironic: Here is this very pro-military nominee who is being criticized as somehow being anti-military, being criticized by some of the same Republican Senators who have filibustered and voted against funding for our troops and against services for our veterans. I think most people see through that.

Mr. President, we are required to vote at what time?

The PRESIDING OFFICER. The Senate is voting at about 11:50 a.m. when all time is expired.

Mr. BAYH. Mr. President, I rise today to speak in favor of the nomination of Judge Tanya Walton Pratt. I joined together with Senator LUGAR to recommend Judge Walton Pratt because I know firsthand that she is a highly capable lawyer who understands the limited role of the Federal judiciary.

Before I speak to Judge Walton Pratt's qualifications, I would like to comment briefly on the state of the judicial confirmation process generally. In my view, this process has too often been consumed by ideological conflict and partisan acrimony. This is not, I believe, how the Framers intended us to exercise our responsibility to advise and consent.

During the last Congress, I was proud to work with Senator LUGAR to recommend Judge John Tinder as a bipartisan, consensus nominee for the Seventh Circuit Court of Appeals. Judge Tinder was nominated by President Bush and unanimously confirmed by the U.S. Senate by a vote of 93–0. It was my hope that Judge Tinder's confirmation would serve as an example of the benefits of nominating qualified, nonideological jurists to the Federal bench.

In selecting Tanya Walton Pratt, President Obama has demonstrated that he also appreciates the benefits of this approach. I was proud to once again join with Senator LUGAR to recommend her to the President, and I hope that going forward other Senators will adopt what I call the ''Hoosier approach'' of working across party lines to select consensus nominees.

I would also like to personally thank Senator LUGAR for his extraordinary leadership and for the consultative and cooperative approach he has taken to judicial nominations. During my time in Congress, it has been my great privilege to forge a close working relationship with Senator LUGAR across many issues. This has been especially true on the issue of nominations—when a judicial nominee from Indiana comes before the Senate, our colleagues can be confident that the name is being put forward with bipartisan support, regardless of which political party is in the White House or controls a majority in the U.S. Senate.

I should also note that Judge Walton Pratt is a historic nominee. If confirmed, she will be our State's first African-American Federal judge. While this day is long overdue, I hope that her confirmation will inspire Hoosier children of all backgrounds to pursue their dreams and show them that, in America, anything is possible if you study hard and play by the rules.

On the merits, Tanya Walton Pratt is an accomplished jurist who is well-qualified for a lifetime appointment to the Federal judiciary. She has extensive trial experience, having served as, a judge on the Marion Superior Court since 1997. For much of this time, she served in the criminal division, handling major felonies and presiding over dozens of jury trials per year. More recently, she has played a critical role in the probate division, presiding over adoption cases and placing children in loving homes.

During this time, Judge Walton Pratt has been recognized as a leader among Indiana jurists. She has served as chair of the Marion County Bar Association and on the executive committee of the Marion Superior Court System. Among other accolades, she has been honored as ''Outstanding Judge of the Year'' by the Indiana Coalition Against Sexual Assault.

Judge Walton Pratt has shown that she is deserving of the public trust. She has demonstrated the highest ethical standards and a firm commitment to applying our country's laws fairly and faithfully. She understands that the appropriate role for a judge is to interpret our laws, not to write them.

Tanya Walton Pratt is also a recognized leader in our community. She has also been honored with numerous awards including the Career Achievement Award from the Archdiocese of Indianapolis and the Key to the City of Muncie.

I can say with confidence that Tanya Walton Pratt is the embodiment of good judicial temperament, intellect, and evenhandedness. If confirmed, she will be a superb and historic addition to the Federal bench. I am pleased to give her my highest recommendation.

I urge my colleagues to join me—and Senator LUGAR—in supporting this extremely well-qualified and deserving nominee.

Ms. LANDRIEU. Mr. President, Brian Jackson and Elizabeth Erny Foote are outstanding candidates for judgeships in Louisiana's Middle and Western Districts. I was honored to recommend Brian Jackson and Beth Foote to the President last year.

These two well-qualified, noncontroversial nominees are sorely needed in the districts they have been nominated to serve, where courts are facing unacceptable backlogs and sitting judges are overwhelmed with unmanageable caseloads. Ms. Foote and Mr. Jackson have been eager for this body to let them get to work serving justice to the people of Louisiana since they were reported by the Judiciary Committee on March 18. I am relieved to see that their long journey toward confirmation is drawing to a close.

Brian Jackson is an exemplary public servant with a distinguished record as an attorney and prosecutor. He has extensive Federal experience, having worked for the Department of Justice for 16 years. From 1992 to 2002, he served as first assistant U.S. attorney and U.S. Attorney for the Middle District of Louisiana. As the first assistant U.S. attorney, he managed or litigated a variety of civil and criminal cases. Because of his leadership, he was selected in 2001 to be the interim U.S. attorney for the Middle District pending the confirmation of President Bush's nominee.

Prior to becoming an assistant U.S. attorney, he served as an associate deputy attorney general in Washington, DC. In this role, he was as a principal adviser to the Attorney General and Deputy Attorney General on civil rights and criminal justice policies. In 1992 he was honored as the recipient of the Attorney General's Award for Equal Employment Opportunity for his leadership in this area.

Since 2002, he has distinguished himself in private practice in the firm Liskow and Lewis, where he is a shareholder. He is currently chair of the firm's government investigations and white collar crime groups and he is on Liskow and Lewis' board of directors and is the immediate past chair of the firm's diversity committee.

In addition to this distinguished career in private practice, Brian has also been extremely active in public service. He has graciously served on the boards of several nonprofit organizations, including Catholic Charities of New Orleans, The Pro Bono Project, Teach for America for the South Louisiana Region, and The Metropolitan Crime Commission, for which he served as vice chair. Additionally, he has given back to the legal community by serving on the board of directors for the New Orleans Chapter of the Federal Bar Association.

Finally, Brian's impressive academic credentials have also prepared him to serve Louisiana's Middle District. He received his bachelor of science, Xavier University in 1982. He received his J.D. from the Southern University School of Law in 1985 where he served as editor-in-chief of the Southern University Law Review and his master's of law with concentration in international and comparative law from Georgetown University Law Center in 2000.

With these credentials, firm roots Louisiana's Middle District, and a long and impressive career in the U.S. Department of Justice, Brian Jackson is truly ready to hit the ground running as district court judge.

Elizabeth Erny Foote is an experienced attorney with 30 years of experience in Federal litigation. She is a partner in the Smith Foote Law firm in Alexandria, LA, where she primarily practices civil litigation. She has had extensive experience in Federal court throughout her career, having litigated in all three Federal Court Districts of Louisiana, in addition to the Fifth Circuit Court of Appeal.

In addition to this outstanding private practice, Beth has proven her dedication to the legal profession through her service to the Louisiana State Bar Association.

In addition to this outstanding private practice, Beth has proven her dedication to the legal profession through her service to the Louisiana State Bar Association, with which she has been actively involved since 1985

and is currently the immediate past president. In 1994, she became the first woman to serve as an officer in the Louisiana State Bar association when she was elected treasurer. The same year she received the President's Award for outstanding service.

Beth is truly a respected civic leader throughout Louisiana. In addition to her contributions to the legal field, she has demonstrated her commitment to justice and equality through a number of nonprofits and government initiatives. Her prestigious awards and honors include: the 2004 Alexandria Human Relations Commission Award for her efforts in promoting better understanding and quality of life in her community, the 2004 Louisiana Heroine Award presented by the Louisiana Association of Nonprofit Associations, the 2000 Central Louisiana Woman of the Century Award, and the 1996 Central Louisiana Women Business Owners' ''Business Owner Woman of Excellence'' Award.

Finally, Beth's impressive academic credentials have prepared her to serve Louisiana's Western District. She received a bachelor of arts from Louisiana State University in 1974, a master's of arts from Duke University in 1975, and a J.D. from Louisiana State University Law School in 1978. She has also been an adjunct professor at the Paul M. Hebert Law Center at LSU, teaching courses in appellate advocacy.

I believe Beth's principled commitment to the field of law, her impressive 30-year career as an attorney, her extensive Federal litigation experience, and her esteemed statewide reputation make her an excellent nominee for judge for Louisiana's Western District.

The time to confirm these two noncontroversial nominees is far overdue. I urge my colleagues to confirm these nominees without further delay so that they may begin the important work the people of Louisiana need them to do.

Mr. LEAHY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I ask unanimous consent that all time be yielded back.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I ask for the yeas and nays on the first nominee.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Tanya Walton Pratt, of Indiana, to be United States District Judge for the Southern District of Indiana?

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from California (Mrs. BOXER), the Senator from West Virginia (Mr. BYRD), and the Senator from Missouri (Mrs. MCCASKILL) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Florida (Mr. LEMIEUX) and the Senator from Kansas (Mr. ROBERTS).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 95, nays 0, as follows:

[Rollcall Vote No. 185 Ex.]

YEAS—95

Akaka	Ensign	Menendez
Alexander	Enzi	Merkley
Barrasso	Feingold	Mikulski
Baucus	Feinstein	Murkowski
Bayh	Franken	Murray
Begich	Gillibrand	Nelson (NE)
Bennet	Graham	Nelson (FL)
Bennett	Grassley	Pryor
Bingaman	Gregg	Reed
Bond	Hagan	Reid
Brown (MA)	Harkin	Risch
Brown (OH)	Hatch	Rockefeller
Brownback	Hutchison	Sanders
Bunning	Inhofe	Schumer
Burr	Inouye	Sessions
Burris	Isakson	Shaheen
Cantwell	Johanns	Shelby
Cardin	Johnson	Snowe
Carper	Kaufman	Specter
Casey	Kerry	Stabenow
Chambliss	Klobuchar	Tester
Coburn	Kohl	Thune
Cochran	Kyl	Udall (CO)
Collins	Landrieu	Udall (NM)
Conrad	Lautenberg	Vitter
Corker	Leahy	Voinovich
Cornyn	Levin	Warner
Crapo	Lieberman	Webb
DeMint	Lincoln	Whitehouse
Dodd	Lugar	Wicker
Dorgan	McCain	Wyden
Durbin	McConnell	

NOT VOTING—5

Boxer	LeMieux	Roberts
Byrd	McCaskill	

The nomination was confirmed.

The PRESIDING OFFICER. The Senator from Nevada, the majority leader, is recognized.

TRIBUTE TO SENATOR DAN INOUYE

Mr. REID. Mr. President, there are not many lists on which Senator DAN INOUYE ranks second. He was Hawaii's first Congressman, and he now is the longest serving Senator from that great State. He is the first Japanese American to serve in the House and first Japanese American to serve in the Senate. He was the first chairman of the Senate Select Committee on Intelligence. He has cast more votes than any other Senator west of the Mississippi. We have all heard the stories about his bravery, both legislatively and on the fields of war where, because of his gallantry, he was awarded the Congressional Medal of Honor.

But there is one place where he comes in No. 2, though it is a remarkable accomplishment nonetheless. This past Friday, Senator INOUYE became the second longest serving U.S. Senator in this Nation's history, passing Senator Strom Thurmond of South Carolina. Every day since Hawaii has been a State, Senator INOUYE has proudly represented its citizens in Congress. Every day since January 3, 1963, 46½ years ago, Hawaiians have been proud to call DAN INOUYE their Senator. Every day I have had the privilege of knowing him and serving with him, I have been proud to call DAN INOUYE my friend.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. MCCONNELL. Mr. President, last October, the Senate had an opportunity to call attention to one of our colleagues who so rarely calls attention to himself when Senator DANIEL INOUYE became the third longest-serving Senator in U.S. history. This past Friday, Senator INOUYE reached an even loftier milestone when he surpassed Strom Thurmond to become the second-longest serving Senator in history. So we honor him for this remarkable feat of longevity.

Senator INOUYE's dedication to the people of Hawaii is legendary, and so is his story. He was only 17 when he heard the sirens over Honolulu and saw the gray planes overhead. But he was old enough to know that life would never be the same.

Sure enough, a few years later, he would be lying in a hospital bed at Percy Jones Army hospital recovering from wounds sustained in a grenade attack in the mountains of northern Italy. It was there that he first met his future colleague, Bob Dole, who evidently mentioned that after the war he planned to go to Congress.

As it turned out, Senator INOUYE beat him by a few years, and he has survived him here in the Senate by many more.

For his heroic actions in World War II, Senator INOUYE received our Nation's most prestigious award for military valor, and he has earned the admiration of all Americans. DAN INOUYE became a member of one of the most decorated U.S. military units in American history and one of its longest-serving, and finest, Senators. So, Senator, thank you for your service, and congratulations on another remarkable achievement.

(Applause, Senators rising.)

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Mr. AKAKA. Mr. President, I rise to congratulate our senior Senator, my good friend and longtime colleague, Senator DAN INOUYE, on his impressive milestone.

On Friday, Senator INOUYE became the second-longest-serving Senator in the history of this storied institution.

DAN was sworn into the Senate in 1963, just a few years after Hawaii became a State. At the time, he was the first and only Japanese American to step foot in this room as a Member of this prestigious body. Today, he is the chairman of the Appropriations Committee. DAN INOUYE did not just break barriers, he shattered them.

Of course, the Senate is only the most recent chapter in DAN INOUYE's lifetime of service to our country, which includes his Medal of Honor service in the Army during World War II, and his service in the Hawaii Territorial Legislature and the U.S. House of Representatives.

Hawaii may be the youngest State in this great country, but as Senator INOUYE's milestone demonstrates, our contributions continue to shape the United States of America.

From President Barack Obama, who grew up not far from Senator INOUYE's childhood home on the island of Oahu, to each teacher, soldier, construction worker, and farmer, we are proud of the many accomplishments of Hawaii's people. We are proud to be the 50th State, and we are proud of Senator INOUYE's long career serving our Nation.

Aloha and congratulations, DAN.

(Applause, Senators rising.)

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Brian Anthony Jackson, of Louisiana, to be U.S. District Judge for the Middle District of Louisiana?

Mr. MCCONNELL. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) and the Senator from Missouri (Mrs. MCCASKILL) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Florida (Mr. LEMIEUX) and the Senator from Kansas (Mr. ROBERTS).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 96, nays 0, as follows:

[Rollcall Vote No. 186 Ex.]

YEAS—96

Akaka	DeMint	Leahy
Alexander	Dodd	Levin
Barrasso	Dorgan	Lieberman
Baucus	Durbin	Lincoln
Bayh	Ensign	Lugar
Begich	Enzi	McCain
Bennet	Feingold	McConnell
Bennett	Feinstein	Menendez
Bingaman	Franken	Merkley
Bond	Gillibrand	Mikulski
Boxer	Graham	Murkowski
Brown (MA)	Grassley	Murray
Brown (OH)	Gregg	Nelson (NE)
Brownback	Hagan	Nelson (FL)
Bunning	Harkin	Pryor
Burr	Hatch	Reed
Burris	Hutchison	Reid
Cantwell	Inhofe	Risch
Cardin	Inouye	Rockefeller
Carper	Isakson	Sanders
Casey	Johanns	Schumer
Chambliss	Johnson	Sessions
Coburn	Kaufman	Shaheen
Cochran	Kerry	Shelby
Collins	Klobuchar	Snowe
Conrad	Kohl	Specter
Corker	Kyl	Stabenow
Cornyn	Landrieu	Tester
Crapo	Lautenberg	Thune
Udall (CO)	Voinovich	Whitehouse
Udall (NM)	Warner	Wicker
Vitter	Webb	Wyden

NOT VOTING—4

Byrd	McCaskill
LeMieux	Roberts

The nomination was confirmed.

VOTE EXPLANATION

Mrs. BOXER. Mr. President, unfortunately I was unable to make this morning's vote on the nomination of Tanya Walton Pratt to be United States District Judge for the Southern District of Indiana. Had I been present for the vote, I would have voted aye on the nomination.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Elizabeth Erny Foote, of Louisiana, to be United States District Judge for the Western District of Louisiana?

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motions to reconsider are considered made and laid upon the table, and the President will be immediately notified of the Senate's action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

The Senator from Vermont is recognized.

TAX BREAK REPEAL

Mr. SANDERS. Mr. President, I have a pending amendment to the tax extenders bill and want to say a few words on that.

At a time when we have a record-breaking $13 trillion national debt and an unsustainable Federal deficit, at a time when two out of every three corporations in America paid no Federal income taxes between 1998 and 2005, at a time when ExxonMobil, the most profitable corporation in the history of the world, not only paid no Federal income taxes in 2009 but actually got a $156 million refund from the IRS, at a time when we desperately need to end our dependence on fossil fuel and transform our energy system, the amendment I am offering, along with Senator WYDEN, Senator WHITEHOUSE, Senator MENENDEZ, and Senator LAUTENBERG, is simple and straightforward.

This amendment simply repeals over $35 billion in tax breaks to the oil and gas industry, all of which were recommended for elimination in President Obama's fiscal year 2011 budget, which the Joint Committee on Taxation has estimated would raise over $35 billion in a 10-year period.

To put this in perspective, the taxpayer dollars saved by repealing these tax breaks represents about 1 percent of the total projected revenue of the oil and gas industry over this same time period. In other words, the cost of repealing these tax breaks for the oil and gas industry is negligible.

More than $25 billion of the money saved under this amendment would be used to reduce the deficit. I hear my friends coming down every day, appropriately, talking about our record-breaking deficit and our huge national debt. Mr. President, $25 billion in this amendment is used for deficit reduction.

Mr. President, $10 billion would be invested in the highly successful Energy Efficiency and Conservation Block Grant Program over a 5-year period, which would go to 50 States in this country to help them move forward in terms of energy efficiency and sustainable energy.

This amendment has widespread support throughout this country from organizations representing millions of Americans, including the League of Conservation Voters, the Sierra Club, the American Council for an Energy Efficient Economy, Friends of the Earth, the Union of Concerned Scientists, Physicians for Social Responsibility, the American Public Health Association, moveon.org, Environment America, Oceana, 1 Sky, Greenpeace, Public Citizen, the Center for Biological Diversity, the Conservation Law Foundation, and 350.org.

In addition, the Energy Efficiency and Conservation Block Grant funding this amendment would provide is strongly supported by the U.S. Conference of Mayors, the National League of Cities, the National Association of State Energy Officials, and the National Association of Development Organizations, and I am pleased to report that Taxpayers for Common Sense and the National Wildlife Federation strongly support repealing the oil and gas tax breaks this amendment would eliminate.

Let me briefly explain why this amendment needs to be included in this overall legislation. First, there is no debate; everybody here understands we have to address the deficit crisis and the $13 trillion national debt we face. Well, I say to my friends: If you are serious about doing this and doing it in a way that doesn't decimate the middle class or working families, this amendment is a good step forward: $25 billion in deficit reduction over a 10-year period is significant and it would help us address a major crisis.

Secondly, we all understand—or I hope we all understand—we have to reform the Tax Code, which is grossly unfair today. We must make the Tax Code fairer and more equitable for ordinary Americans and, in my view, that means ending the absurdity of seeing large corporations, enormously profitable corporations, not pay their fair share of taxes and, in some cases, not paying any taxes at all. Each and every year, large and profitable corporations all over this country are able to avoid paying billions of dollars in Federal income taxes through loopholes in the Tax Code and generous tax breaks. This is simply unacceptable, it is unfair especially with a record-breaking

deficit, it is very poor public policy, and it has to be changed.

To highlight how absurd this situation has become, take a look at the August 2008 report on the subject by the Government Accountability Office or the GAO. According to this report—and I hope Americans hear this—two out of every three corporations in the United States paid no Federal income taxes from 1998 to 2005—two out of three. Amazingly these corporations had a combined $2.5 trillion in sales but paid no income taxes to the IRS. This statistic includes one out of four large corporations. That is according to the GAO.

Further, according to a report from the Citizens for Tax Justice, 82 Fortune 500 companies in America paid:

zero or less in federal income taxes in at least one year from 2001 to 2003.

I am thinking now about working people in the State of Vermont and in the State of New Mexico or in Oklahoma, where people are making 10, 12 bucks an hour; people are working 40, 50, 60 hours a week; people who are paying their fair share of taxes. Yet we end up having these large multinational corporations making billions of dollars every year in profits and then they avoid paying their fair share of taxes. That is an issue we have to address.

This same report from Citizens for Tax Justice states:

In the years they paid no income tax, these companies earned $102 billion in U.S. profits.

How is that? Not a bad deal: $102 billion in profits, zero income taxes.

But instead of paying $35.6 billion in income taxes as the statutory 35 percent corporate tax rate seems to require, these companies generated so many excess tax breaks that they received outright tax rebate checks from the U.S. Treasury, totaling $12.6 billion.

How is that? They make huge amounts of money, don't pay any taxes, and then Uncle Sam gives them a rebate. That is quite the scam.

In other words, between 2001 and 2003, 82 of the largest, most profitable corporations in this country received a $12.6 billion tax refund—tax refund—from the IRS when, if they were paying their 35 percent of corporate taxes as the law requires, they would have paid over $35 billion in taxes. That is a net loss to the U.S. Treasury of $48 billion.

It is not just Bernie Sanders who has strong concerns about this issue. The issue of abusive corporate tax breaks has even gotten the attention of Forbes Magazine.

Mr. INHOFE. Mr. President, will the Senator yield?

Mr. SANDERS. I will yield in a few minutes and be happy to discuss this issue with my friend.

Mr. INHOFE. Just one short question. Is the Senator talking about amendment No. 4318?

Mr. SANDERS. I am, but not yet. I will get to that in a moment.

Mr. INHOFE. OK.

Mr. SANDERS. Mr. President, the issue of abusive corporate tax breaks has even gotten the attention of Forbes Magazine, which reported on April 1, 2010—this is Forbes Magazine—Forbes 500, dynamic capitalism, Forbes Magazine, and this is what they say on April 1, 2010:

As you work on your taxes this month, here's something to raise your hackles: Some of the world's biggest, most profitable corporations enjoy a far lower tax rate than you do—that is, if they pay taxes at all.

Forbes Magazine. This is not one of the more progressive journals in America.

So enough is enough. We can and must reduce the deficit in a way that does not harm the American middle class. Making sure that large and profitable corporations are not able to avoid paying taxes could significantly reduce the deficit. It is not the only thing we have to do, but it would be an important step forward.

As a first step in this direction, the amendment I am proposing today goes after the three most generous tax breaks enjoyed by the oil and gas industry and would raise over $35 billion in revenue over a 10-year period—$35 billion, 10 years. All of these tax breaks were recommended for elimination in President Obama's fiscal year 2011 budget request.

Specifically, this amendment eliminates the expensing of intangible drilling costs to raise over $10.9 billion. It eliminates percentage depletion for oil and gas while saving over $9.6 billion; and it eliminates the so-called manufacturing tax deduction for oil and gas production, saving over $14.7 billion over the next decade, according to the Joint Committee on Taxation.

I want my colleagues to take a look at this chart, because what this chart tells us is that during the last 10 years, the five largest oil companies—ExxonMobil, Shell, BP, Chevron, Texaco, and ConocoPhillips—earned over $750 billion in profits—10-year period, $750 billion, the top five oil companies. During the first quarter of this year, big oil's profits increased by 85 percent. Providing tax breaks to this profitable industry at a time of record-breaking deficits simply does not make sense. We can't afford to do it.

Let me give one example of the absurdity of continuing to provide tax breaks to the oil and gas industry. I want my colleagues to take a look at this chart right here. As we all know, ExxonMobil was the most profitable corporation in the history of the world from 2006 through 2008, making $40 billion in profits in 2006, $41 billion in 2007, and $45 billion in 2008. Not bad. These profits, among other things, enabled Exxon to provide a $398 million retirement package to its former CEO, Lee Raymond.

In 2009, one of the most economically difficult years since the Great Depression—millions of people losing their jobs, their homes, their savings—ExxonMobil was still able to make $19 billion in profits in the midst of a severe recession.

I have a question for my friends on both sides of the aisle to consider: Out of that $19 billion profit, how much did ExxonMobil pay in taxes to the IRS? How much did they pay? How many billions of dollars? How many hundreds of millions of dollars did they pay? Well, the answer is: Zero, not one red nickel.

So all over America, working families are struggling to keep their heads above water. They pay their taxes. Yet we have a corporation, the most profitable in the history of the country, that last year made $19 billion in profit, and they didn't pay a nickel in taxes.

But that is not, as they say, the whole story. It gets worse than that.

As this chart right here on my right shows, ExxonMobil reported to the SEC that not only did it avoid paying any Federal income taxes, it actually received a $156 million refund from the IRS. Twenty-two percent of the children in this country live in poverty. We have record-breaking deficits. We have a $13 trillion national debt, and ExxonMobil receives $156 million in a tax refund after making $19 billion in profits. This has to stop.

This amendment I am offering would begin to make sure that ExxonMobil pays at least a minimal amount of their record-breaking profits in taxes to the Federal Government. That is the very least we can do.

But ExxonMobil is not the only corporation enjoying these tax breaks. Chevron, the fourth most profitable oil company in America, a company that made a $10 billion profit last year when other companies were fighting to stay alive, reported to the SEC that it received a $19 million refund from the IRS. This is Chevron. I know. It is not as much as ExxonMobil, but a $19 million refund after you make $10 billion in profits, that is not too shabby.

Valero Energy, the 25th largest company in America with $68 billion in sales last year, received a $157 million refund check from the IRS, and over the past 3 years it received a $134 million tax break from the oil and gas manufacturing tax deduction that this amendment seeks to eliminate. And on and on it goes. ConocoPhillips, et cetera, et cetera.

Let me very briefly turn to what this amendment would do with the revenues. In terms of deficit reduction, as I have indicated, the benefits are substantial. As we all know, the underlying bill we are debating today, which I support, would increase the deficit by about $87 billion over 10 years. This amendment, my amendment, would cut that by about a third—$25 billion over 10 years. This amendment importantly would also invest $10 billion into the Energy Efficiency and Conservation Block Grant Program which, as I mentioned earlier, will create jobs, save people money on their fuel bills, and help transform our energy system away from fossil fuels.

I get a little bit tired of hearing my friends come to the floor of the Senate talking about the need to reduce our

deficit. I get a little bit tired of people talking about the need for equity. If we cannot address a situation where some of the most profitable corporations in America pay zero Federal taxes and, in fact, get a tax rebate, then I am not quite sure what this institution is doing.

So we now have an opportunity to move forward, to address our deficit crisis. We have an opportunity to move forward to transform our energy system. We have an opportunity in this amendment to create jobs and break our dependency on fossil fuel.

I ask unanimous consent that the Senate now proceed to a debate on amendment No. 4318; that the time for such debate be limited to half an hour equally divided; that once the time has expired on this debate, the Senate proceed to a vote on amendment No. 4318.

The PRESIDING OFFICER. Is there objection?

Mr. INHOFE. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. SANDERS. Mr. President, I hear my friend's objection. I think that is unfortunate. The American people should be able to have a different vote and debate on this issue. But I hear what the Senator has said.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. INHOFE. Mr. President, I think the regular order is to go out now. First, I suggest that I will want some time this afternoon to explain what this amendment really does and also to explain in some detail the marginal wells this would affect. The average marginal well in my State of Oklahoma is 2 barrels a day. We are not talking about giants here. This is a totally different situation. We will have an opportunity to pursue that after resuming the regular order.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2:15 p.m.

Thereupon, the Senate, at 1:01 p.m., recessed, and reassembled when called to order by the Presiding Officer (Mr. BEGICH).

The PRESIDING OFFICER. The Senator from Iowa.

ALTERNATIVE MINIMUM TAX

Mr. GRASSLEY. Mr. President, I wish to bring to my colleagues' attention the fact that we have this problem we deal with too often called the alternative minimum tax. I bring it to my colleagues' attention.

Last week, I had an opportunity to address my colleagues on the unfinished tax legislative business. These four items are the unfinished business to which I was referring. The legislation before the Senate deals with only one but, of course, an important piece of the unfinished legislative business. These tax extenders are on their second legislative stop through the Senate.

As the chart shows, the tax extenders, which are overdue by almost half a year, are not alone in that unfinished business. There are three other major areas of unfinished business. As we can see from the chart, we have the death tax with which we have not dealt. Another area is the 2001 to 2003 tax rate cuts and family tax relief package. Then the third area is the AMT patch, the alternative minimum tax.

Over the past few years, the AMT is frequently a subject of many of my addresses to my colleagues. I intend to keep talking about the AMT until this Congress actually takes action on reforming the AMT.

Instead of taking action, Congress this session has done absolutely nothing, and the problem continues to get worse for at least 26 million American families—let me emphasize middle-class American families—who will be caught in this AMT trap and, as a matter of fact, are now already caught.

Those being caught or are caught are the families who make estimated tax payments and who will be making their second payment this very day.

Last year, in 2009, a bit over 4 million families were hit by the alternative minimum tax. I think this was 4 million families too many, but it is considerably better than the more than 26 million additional families who will be hit this year in 2010 if Congress does not take action.

The reason we are experiencing this large increase this year is that over the last 9 years Congress has passed legislation that would temporarily—and only temporarily—increase the amount of income exempt from the alternative minimum tax. These temporary exemption increases have prevented millions of middle-class American families from falling prey to the alternative minimum tax until right now.

While I have always fought for these temporary exemptions, I believe the AMT ought to be permanently repealed. One reason I have previously given for permanent repeal is that it may be difficult for Congress to revisit the alternative minimum tax on a temporary basis every year. Of course, this current situation, now 6 months into this year, proves me right. Congress has yet to undertake any meaningful action on the alternative minimum tax.

The budget resolution, passed well over a year ago, provided revenue room for a short-term extension of the alternative minimum tax patch. That was a lot less than what President Obama's budget did, which made the patch permanent.

On this point, since too often people think I do not agree with President Obama enough, this is one point where I believe the tax policy of President Obama has it exactly right.

About 18 months ago, much to the criticism of some on the other side, I made the 2009 AMT patch an issue in the economic stimulus legislation. The reason I did is that 24 million middle-class families would have, on average, paid $2,400 more in income taxes for 2009 if the patch had been abandoned. For those 24 million people, paying $2,400 more into the Federal Treasury would have been a real hurt. My 2009 AMT patch amendment was adopted in the stimulus legislation by the Finance Committee. That was 18 months ago.

Despite assurances the AMT relief is an important issue, nothing has actually been put forward as a serious legislative solution this year. Again, we can see the checklist chart. There has been no House committee markup or floor action, no Senate committee markup or floor action. This year is almost half done. A theoretical discussion is not a substitute for real action, to which anyone making a quarterly payment today will attest.

I am hopeful I can get folks on Capitol Hill rethinking about the AMT and realize that it is a real problem right now. Everyone seems to agree that something needs to be done quickly, but the discussion does not go any further than just discussion.

The second quarterly payment is due today. Today taxpayers across the country are under a legal requirement to pay their estimated taxes, and with it the additional money that would be owed because the AMT has not been patched. They would use form 1040–ES. I bet I will be here September 15 when the third payment comes due saying largely the same thing.

Congress does not seem to be under any pressure to actually take action. Many on the other side insist that, unlike new spending proposals or extensions of existing programs, AMT reform should happen only if it is revenue neutral. That means any revenues—I want to put quotes around these words—any revenues ''not collected'' through reform or repeal of the AMT must be offset by new taxes from somewhere else.

Notice I said ''collected,'' and I did not say ''lost.'' This distinction is important for the simple reason that the revenues we do not collect as a result of AMT relief are not, in fact, lost to the Treasury. The AMT collects revenues it was never supposed to collect in the first place. In other words, middle-class income people were not supposed to pay this tax in the first place—that is that 24 million—because this AMT was originally conceived as a mechanism to ensure that high-income taxpayers were not able to completely eliminate their tax liability. From that standpoint, even the AMT has failed because in 2004, IRS Commissioner Everson told the Finance Committee the same percentage of taxpayers continue to pay no Federal income tax as they did back in 1969. Even I think, on raw numbers, it is a much larger number. Back then it was only 155 taxpayers.

Today, at least 24 million to 26 million middle-class families are in these alternative minimum tax crosshairs. That is quite a change from the 155

rich people in 1969 who were not paying any tax, the reason for the alternative minimum tax to be passed in the first place.

Finally, if we offset revenues not collected as a result of AMT repeal or reform, total Federal revenues over the long term are projected to push through the 30-year historical average and then keep going.

The AMT then is a completely failed policy that is projected to bring in future revenues that it was never designed to collect in the first place.

President Obama met those of us who favor repeal partway by staking out a position on AMT reform during his 2008 campaign. His position provided for a permanent AMT patch. His budgets have maintained that position.

While permanent repeal without offsetting is the best option, we absolutely must do something to protect taxpayers and do it now, even if it involves a temporary solution, such as an increase in the exemption amount.

Of course, if we do that, we are going to be in the same fix next year, and I will be making that same point again.

Today, Tuesday, June 15, 2010, taxpayers making quarterly payments are going to once again discover that the AMT is neither the subject of an academic seminar nor a future problem that we can put off dealing with. The AMT is a real problem right now, and if this Congress is serious about tax fairness, it needs to stand up and take action.

JOB CREATION

Mr. President, I wish to address the Senate for a minute on another issue about how many jobs the stimulus bill created.

In recent weeks, a number of my colleagues have come to the floor to proclaim the success of the massive $862 billion stimulus bill Congress enacted in 2009. Although the number of private sector jobs has increased by only about half a million since 2009, they continue to insist the stimulus bill has created millions of new jobs. How do they justify these claims?

The stimulus bill requires certain recipients of stimulus funds to report the number of jobs they have created or saved or, more accurately, they report the number of jobs funded with the stimulus dollars.

The stimulus bill also requires the Congressional Budget Office to issue a quarterly report on these numbers. The Congressional Budget Office is careful to point out that the number of jobs being reported by stimulus recipients is not a comprehensive estimate of the economic impact of the stimulus bill. According to the Congressional Budget Office, the actual numbers could be higher or lower.

According to CBO ''estimating the law's overall effects on employment requires a more comprehensive analysis than the recipients' reports provide.''

For this analysis, CBO relies on a computer model. In other words, CBO does not look at the actual jobs data. Instead, it looks at a model of the economy.

CBO is very upfront about all of this. CBO used a computer model to predict how many jobs the stimulus bill would create before it was enacted into law. Now the stimulus bill is, in fact, law, and CBO is using a computer model to tell us it did just what they said it would do—create jobs.

Why would CBO rely on a model instead of actual data? According to CBO—and I have a three- or four-sentence quote here:

> Data on actual output and employment are not as helpful in determining the stimulus bill's economic effects because isolating those effects would require knowing what path the economy would have taken in the absence of the law. Because that path cannot be observed, there is no way to be certain about how the economy would have performed if the legislation had not been enacted.

My judgment is that CBO is saying this: CBO doesn't know how much better or worse the economy would have been if the stimulus bill had not been enacted. That means the Congressional Budget Office also doesn't know how much better or worse the economy is now as a result of the stimulus bill. So basically CBO is saying: Trust us—or more specifically: Trust our model. But if the model was wrong to begin with, then wouldn't it still be wrong? According to the Congressional Budget Office, their model relies on historical relationships to determine estimated multipliers for each of several categories of spending and tax provisions in the stimulus bill. The problem is that there is no way to know whether these historical relationships remain constant over time or whether they change under different economic circumstances.

In short, the jobs numbers attributed to the stimulus bill are based on assumptions which may or may not have any basis in reality.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

AMERICAN JOBS AND CLOSING TAX LOOPHOLES ACT OF 2010

Mr. BAUCUS. Mr. President, what is the pending business?

The PRESIDING OFFICER. The clerk will report the pending business.

The legislative clerk read as follows:

> Motion to concur in the House amendment to the Senate amendment to H.R. 4213, an act to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes.

Pending:

> Baucus motion to concur in the amendment of the House to the amendment of the Senate to the bill, with Baucus amendment No. 4301 (to the amendment of the House to the amendment of the Senate to the bill), in the nature of a substitute.
>
> Franken amendment No. 4311 (to amendment No. 4301), to establish the Office of the Homeowner Advocate for purposes of addressing problems with the Home Affordable Modification Program.
>
> Sanders amendment No. 4318 (to amendment No. 4301), to amend the Internal Revenue Code of 1986 to eliminate big oil and gas company tax loopholes and to use the resulting increase in revenues to reduce the deficit and to invest in energy efficiency and conservation.
>
> Vitter amendment No. 4312 (to amendment No. 4301), to ensure that any new revenues to the Oil Spill Liability Trust Fund will be used for the purposes of the fund and not used as a budget gimmick to offset deficit spending.
>
> Reid amendment No. 4344 (to amendment No. 4301), to amend the Internal Revenue Code of 1986 to extend the time for closing on a principal residence eligible for the first-time home buyer credit.
>
> Thune/McConnell amendment No. 4333 (to amendment No. 4301), of a perfecting nature.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, George Santayana wrote:

> Those who cannot remember the past are condemned to repeat it.

Today, we must remember the past. We must learn from past mistakes, and we must do our best to avoid repeating them.

In its response to the Great Depression of the 1930s, the Federal Government made a serious mistake. It is important to remember this past so we are not condemned to repeat it. The stock market crashed in 1929. By 1933, the unemployment rate reached a high of 25 percent. A few years later—4 years later, to be precise—in 1937, the economy was rebounding. The unemployment rate had fallen to 14 percent, gross domestic product was growing at an average rate, if you can believe it, of 9 percent a year, and the stock market had more than doubled over the past 4 years. That was 1937. The economy was on the road to recovery. But this exceptional economic growth did not just happen. It resulted from strong actions by the Federal Government. From 1933 to 1937, for example, the United States dramatically increased the money supply. Lower interest rates and greater credit availability helped to stimulate spending and economic growth. New Deal programs also helped. Spending was modest but significant compared to the magnitude of the Great Depression. But the response provided a notable boost to the economy, and it helped instill confidence in the Federal Government's ability to tackle the Depression.

But in 1937, after 4 years of growth, the government made a mistake. Concerned about short-term deficits, what did it do? It began to cut spending and it began to raise taxes. A bonus for World War I veterans, which provided a boost in consumer spending, was allowed to expire in 1937. Social security taxes were collected for the first time in 1937. And marginal tax rates increased dramatically. What happened? This premature attempt to reduce deficits pushed the economy back over the edge. It was premature. The jobless rate shot back up to 19 percent. In 1938, gross domestic product fell by 3 percent. Shortsighted policy decisions

caused a double-dip. The mistaken desire to balance the budget too quickly effectively lengthened the Great Depression by 2 more years.

I understand the desire today to reduce deficits. I share that desire. We do need to put in place deficit reduction that will take effect after the recovery has kicked in. But we must also learn from the 1937 history. We must not repeat the mistake that led to the double-dip downturn of the late 1930s. If we were to dramatically cut spending or increase taxes to reduce the deficit in the short run, it would run the risk of causing a double-dip in this great recession.

Today, the economy remains too fragile to begin cutting back. Unemployment stands at 9.7 percent. The May jobs report was disappointing. The private sector created only 41,000 new jobs. In total, 15 million Americans still remain out of work, and half those unemployed have been unemployed for more than 6 months. Gross domestic product grew 3 percent in the first quarter of 2010, but this was down from 5.6 percent in the fourth quarter of 2009.

Just as in 1937, we are in a recovery period. That is true. And just as in 1937, it is a recovery that is showing signs of weakness. If we act recklessly today, we risk a double-dip recession. If we adopt a constrictive fiscal policy in the short run, we risk prolonging the great recession for years to come. We cannot act without regard to the consequences of our actions.

Make no mistake, we must tackle and should tackle our long-term deficits. That is clear. And that is why one of the goals of the President's Commission on Fiscal Responsibility and Reform is to ''achieve fiscal sustainability over the long run.'' We do need to act aggressively to reduce our long-term deficits as the economy enters a phase of expansion. But first we must pull ourselves out of this great recession.

One of the best things we can do to facilitate the delicate recovery is to pass the American Jobs and Closing Tax Loopholes Act before us today. This bill extends tax cuts for families and businesses that will help them in these difficult times, and this bill sustains vital social safety net programs that will also help foster economic growth.

We have made the mistake of cutting back too soon once before, and we must not make it again. The Thune amendment, which will be before us in the not to distant future this week, will move in the wrong direction. Instead of helping to create economic demand, the Thune amendment would curtail aggregate demand by more than $50 billion. Instead of continuing the good the Recovery Act has done, the Thune amendment would chop it off.

The Thune amendment would, among other things, cancel unspent and unallocated mandatory spending in the Recovery Act—stop it. That spending is working. The Recovery Act is working. The Federal Reserve and many independent economists have credited the Recovery Act with playing an important role in stabilizing the economy.

This is what the nonpartisan Congressional Budget Office said in its most recent report:

> CBO estimates that in the first quarter of calendar year 2010, [the Recovery Act's] policies raised the level of real . . . gross domestic product . . . by between 1.7 percent and 4.2 percent, lowered the unemployment rate by between 0.7 percentage points and 1.5 percentage points, increased the number of people employed by between 1.2 million and 2.8 million, and increased the number of full-time equivalent jobs by 1.8 million to 4.1 million compared with what those amounts would have been otherwise.

That is what CBO says about the recovery. And the Congressional Budget Office projects that the Recovery Act will continue to create jobs. It projects that the Recovery Act will create the peak number of jobs in the third quarter of this year and then begin to taper off. But we do not want to abruptly cut that job creation off. In this fragile economy, the last thing we should do is to cut back on this proven job creator. It works. It has been working.

We passed the Recovery Act to give a needed boost to our economy. The bill was designed to work over 2 years. That was the intent of it. We have successfully started down the road to recovery, but if we were to withdraw these critical funds, we would risk causing further damage to our fragile economy. Revoking the Recovery Act funds now would send exactly the wrong signal to the American economy and to unemployed Americans.

The Thune amendment would also cut other valuable spending programs. The Thune amendment's spending cuts are arbitrary and they are restrictive. For example, one provision in the Thune substitute amendment would freeze the salaries of all Federal employees except for Members of the armed services. But what about civilian defense workers? What about law enforcement? What about border protection?

Another provision would cap the total number of Federal employees at current levels. If an agency needed to hire a new employee, it would first need to find an existing employee to fire. This would dramatically reduce the flexibility of agencies to make hiring decisions.

The Thune substitute amendment would also cut discretionary spending by 5 percent across the board for all agencies except the Department of Veterans Affairs and the Department of Defense. Apparently, this 5-percent cut would apply to the Department of Homeland Security. It would apply to Immigration and Customs Enforcement. Apparently, it would apply to all the intelligence agencies, just to name a few.

The Thune amendment would also, by the way, rescind $80 billion in appropriated but unspent Federal funds. But just because the funds have not yet been obligated does not mean they are superfluous. For example, when money is appropriated to build a battleship, it does not all get obligated in the first year. By cutting funds that have not yet been obligated, it would adversely affect the construction of that battleship.

I support finding ways to make our government more efficient, but these cuts are arbitrary. They are inappropriately restrictive.

The Thune amendment would also make changes to the new health care law that would leave more Americans without insurance. The Thune amendment does this by expanding the affordability exception to the individual mandate for purchasing health insurance. This expansion would eliminate coverage for millions of Americans. It would strike at the heart of health care reform. And the Congressional Budget Office tells us it would also increase premiums for everybody else.

The Thune amendment, just to repeat, would increase premiums for millions of Americans who would have health insurance. The irony of this proposal in the Thune amendment is that it raises money for the government because the government would not provide as much in tax credits to Americans to help them buy insurance. That is the irony. But Congress has just enacted health care reform. Congress just expressed our Nation's commitment to helping all Americans to buy health insurance. We should let the new health care law take effect.

The Thune amendment would also propose changes to our medical liability system that the Senate has rejected many times over the years. The Thune amendment would cap damages and make other changes to State laws. This is not the solution to medical malpractice.

While the Congressional Budget Office says these kinds of ideas would generate savings, we should ask: What is the cost of those savings? What would be the cost to patients? What would be the cost to States?

The same studies upon which CBO relied in calculating its cost estimate point out that certain tort reform policies may also increase the number of risky procedures performed. And these policies may lead to more patient injuries and more patient deaths.

One study upon which CBO relied said that these policies would lead to a 0.2-percent increase in mortality.

That sounds an awfully high price to pay.

Imposing national tort reform standards flies in the face of our Nation's civil liability system. That system has always been forged at the State level. And national damage caps would put patient safety at risk.

The Thune amendment employs some of the offsets that it does because it drops the oilspill liability tax. Imagine that: The proponents of the Thune

amendment would rather put the recovery at risk by cutting back the Recovery Act, they would rather cut health insurance coverage in health reform, and they would rather expose patients to greater risk. They would rather do all these things than raise taxes on big oil, to pay for oilspills.

And the Thune amendment employs some of the offsets that it does, because it drops some of the tax loophole closers in the underlying substitute amendment. The underlying substitute amendment closes loopholes in the Tax Code that unfairly benefit certain individuals.

One such loophole is carried interest. The underlying substitute removes an inequity of the Tax Code that allows investment managers who operate through partnerships to have the income that they earn for their services taxed at half the tax rate of other working individuals.

Here's how the carried interest tax loophole works. An investment manager joins a partnership with some investors. But the investment manager does not provide any capital. The investment manager provides services.

The investment manager contracts to receive compensation not in the form of wage income, but in the form of a share of the partnership. That way, the investment manager gets to pay lower capital gains tax rates on the investment manager's income, rather than the higher wage tax rates that the rest of Americans pay.

The underlying substitute says: No longer should we allow investment managers to have a better tax rate than teachers or doctors or firefighters. Our amendment plugs this tax loophole. But the Thune amendment would strike that provision. The Thune amendment would allow that tax loophole to continue.

The underlying substitute also includes an important provision that closes another serious inequity in the Tax Code.

Lawyers, doctors, and other professionals who operate as partners or sole proprietors are currently subject to Social Security taxes on their service income up to $106,800. And they are subject to Medicare taxes on all their service income. Everybody is. But some doctors and lawyers organize themselves as an S corporation and they can pay themselves an artificially low salary. That way, they can avoid paying Social Security or Medicare taxes on much of the income generated by their services. That is just not fair.

And what is more, it hurts the Social Security and Medicare trust funds.

The choice of entity should not affect an individual's tax liability for his or her services.

Unfortunately, Senator THUNE's amendment does not close this loophole. The Thune amendment would strike this loophole closer in the underlying substitute.

The underlying substitute would also close several foreign tax loopholes.

The Senate Finance Committee developed these loophole closers jointly with the House Ways and Means Committee, with the assistance of the Treasury Department.

These loophole-closers would shut down highly structured and complex transactions implemented by multinational corporations to avoid paying U.S. tax.

These tax benefits claimed by the multinational corporations were clearly not contemplated when Congress passed the tax law.

Closing these loopholes would preserve and create jobs here in America. Closing these loopholes would discourage U.S. multinational corporations from shipping American jobs overseas.

Permitting the continued exploitation of these loopholes would only encourage U.S. multinationals to invest additional capital overseas, rather than here in America. Allowing these loopholes to continue would result in the loss of American jobs.

The underlying substitute amendment tackles these loopholes. Senator THUNE's amendment, on the other hand, ignores them. By not addressing them, the Thune amendment would allow this irresponsibility to continue.

And so, the Thune amendment would put the recovery at risk by curtailing the Recovery Act. It would cut the number of Americans with health insurance and raise premiums. It would nationalize medical malpractice law, putting patients at risk. And it would protect big oil and multinational corporations that ship their jobs overseas.

I urge my colleagues to oppose the Thune amendment.

And I urge my colleagues to support the bill before us. Let us protect and strengthen this fragile economic recovery. Let us preserve and create jobs, here in America. And let us enact the American Jobs and Closing Tax Loopholes Act.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I know Senator THUNE will be here in a moment. I saw him just a while ago.

One of the things hurting our economy is that Congress is sending no message whatsoever that we are serious about reducing the uncontrollable debt that every economist says is unsustainable, and that this is a cloud over our economic recovery. The sooner we quit thinking we can make the economy rebound by just spending a few more billion dollars and increasing our debt, the better off we will be and we will get on a sound track to go forward.

I know good people can disagree, but I believe very strongly in this, and I just wanted to share that thought.

OILSPILL IN ALABAMA

I would like to make a few brief comments about the oilspill in the Gulf of Mexico, and my home State of Alabama. I was there Friday and visited Orange Beach, Gulf Shores, Dauphin Island, and Bayou La Batre, examined the beaches and talked with our good mayors and other officials who are there. There are a few things I would like to share that indicate we are not where we need to be.

I have not been one who wants to run out and blame the President for everything. But I do believe as we are now going into day 57 that we need to understand our response is not working well. It could be much better.

For example, I visited Mayor Tony Kennon and his team in Orange Beach. Perdido Pass has a very strong current. You would think you could put up boom and stop oil from coming in. They told us oil was out there. They were expecting it to come in, maybe the biggest amount they had expected since the beginning of the spill. It was expected to hit the coast this past Saturday or Sunday, and it did indeed hit. The city is developing their own plan with their own engineer about how to deal with the currents and the flow of oil to keep it out of the estuaries that are inside of Perdido Pass.

It is complicated. They had a top engineer, Henry Seawell, one of Alabama's best. He was there working on it. I just happen to know him. But the Coast Guard was not there; BP was not there. The mayor said:

> You know, we feel like we are not even at the table, we are not at the children's table. They are not talking to us. But we know more about how to deal with this pass than anybody else in the U.S. Government because we have been working on it, it is our area, and we are trying to protect it.

Sure enough, the oil came. We were behind schedule. They started late. Nobody had done anything until the city started, apparently a good bit of oil got in and that is not good. It also got on the beach. We can clean that up pretty quickly, however a lot hit the beach.

Then a little further down the beach, at Gulf Shores, we had a similar discussion. I went to Fort Morgan, across the mouth of the Mobile Bay where Admiral Farragut sailed in, and we went across to Dauphin Island. The mayor there, Jeff Collier, had some of the same concerns as Mayor Robert Craft in Gulf Shores. Then I went up and met with Mayor Stan Wright, the mayor of Bayou La Batre, himself a seafood processor. He noted to me, and has repeatedly stated, that Bayou La Batre probably represents the largest seafood processing on the entire gulf coast. They are basically being shut down, and a lot of people who work there are losing their jobs. They are low-income workers who do not have extra money to live on, and they are hurting, really hurting. If we are going to receive money from BP, they need to get it out there to the people right now, before they lose their homes or have their power cut off. The mayor told me how people are calling him about their electricity being cut off. It is not a little matter. The whole situation is a big deal.

I am glad the President has gone to the gulf coast. I am hopeful tonight we

will hear some good ideas for progress. I just wanted to share one thing that struck me very vividly. Mayor Kennon's team in Orange Beach told us they had seen a strip of compact oil from the air and a boat about 6 miles offshore. It had the red color, thick process—a strip about 30 miles wide and 2 miles long. This was Friday morning. It was expected to hit Friday night or early Saturday morning. Nobody knew for sure. But it had been out there for a number of days.

So we are asking, Why don't we put a skimmer there? This is the only thing coming in that threatens the beaches. Apparently there were two strips of this offshore at some distance. It represents a significant threat. You could see that threat getting closer and closer. The obvious thought—Mr. President, having been from Alaska, you know the importance of these matters—if you had a good skimmer—where two boats pull the boom and direct the oil into a central location, then you can get it out and put it in a barge or tanker.

There was not any. It would have been rather easy, I suggest, with a good skimmer, to have gone out, with plenty of time to scoop up almost all of that oil or at least a big portion of it. That was not done. It kept coming in, and coming in, and basically by Saturday it was hitting the beaches.

You ask, where are they? We are not talking with one another enough, it seems to me. It does appear there are more skimmers, more boom, more vessels, equipment, and pumps available around the world that could be called on to assist, and we have not accepted all offers of assistance. Nor have we, apparently, sought to lease, buy or purchase the boom, pumps, and skimmers that might help us.

I was just looking at a press release today that stated, Admiral Allen, the national incident commander, Provides Guidance to Ensure Expedited Jones Act Waiver Processing Should It Be Needed.''

He says he will process any requests for waivers of the Jones Act.

For some reason the admiral is still talking about waivers and offering to expedite them. Who is requesting them? Why doesn't he request it? If there is a ship that can skim, it can be brought down to the gulf coast, and it would make a big difference. In fact, I saw the admiral, I believe, the day before yesterday on the television say we need to do a better job. This would have been Monday. We need to do a better job of intercepting the oil between the spill site and the shore.

Good. I thought it might be harder to do. I thought it might be little splotches here and there, all over, and it would be impossible to scoop it all up. But if it is moving, and it tends to move in lines and fairly compact 30-foot strips, then with good equipment we can make a big dent and just stop it.

So I don't know what the problem is. But we do know 17 countries have offered to help, however we only have two skimmers, as I understand it, in the gulf, and those are from Mexico—which we are glad to have. Pumps have been offered. I do not believe we have taken advantage of that. It takes some pretty good pumping equipment to get this oil soaked up, and only 600,000 feet of boom have been received from abroad. The UK has also offered us dispersants, which we have not taken.

I don't know what all the details are, but it seems to me that we can and must do a better job of coordinating. We need to ensure people who need resources are paid now, and we need to understand that there is great potential for effective skimming to occur where the oil has formulated and configured in groups so it can be skimmed. That apparently is more feasible than a lot of people understand. We need to be focusing on that.

The people along the gulf coast are upset about it. One mayor told me: I am a man of good judgment. I am worried about BP's slow response. They talk about responding. They talk about paying, but not enough payment is actually getting out where we have clear cases of substantial losses. Of course, the economy is not where it has been and where we need to see it develop. The beach areas probably wouldn't have been as strong this year as previous years because of the economic downturn. But the testimony from people at public meetings I have attended is crystal clear that we have almost a 50-percent drop in reservations, a 50-percent drop in bookings, and this ripples through the entire community. We already have real estate problems. We already have a little decline in beach attendance. Now we have all this horrible news on the TV and large amounts of cancellations. Some people do need money now. This process needs to be accelerated, and I hope we will hear something in some of what the President tells us tonight. I think he has heard that. He has been down to the gulf coast. He has talked to people. He probably has a better understanding today, after we are 2 months into it, than he previously had.

Maybe we can make this system work a little better. I don't only want to complain. I am thankful the President is showing attention. I am thankful he has stepped out and is showing some leadership. But for some reason, there still seems to be a lack of connection between the talk up at the top and what is happening on the ground. I have been there. I have talked to people. People are not getting money. People are in serious crisis already, people who would be entitled to receive moneys. I don't think BP should pay out money fraudulently. They don't need to pay those who don't deserve it. They ought to be careful in how they handle these payments. But for the most part, people are making legitimate claims. Some of them are desperate now. I don't think we have a unified effective plan to intercept as much of the oil as we could offshore. Nor have we had the kind of support from the Federal Government we would like to see, with scientifically determined processes, placing boom and skimming equipment to stop the flow of the oil, particularly into our estuaries, including Mobile Bay.

Mobile Bay is not that wide of an opening. People thought we could stop it. You could put boom across and stop it. The truth is, with the tides, it is a strong current. Anchors won't hold it. When water moves in, it will go over or under or even break the boom. It is not an easy thing. We need some sort of Chevron-like layers of boom outside the entrance to try to catch as much as we can before it comes in. A little, but I don't think enough, effort has been made. In fact, we now had a significant amount of oil that have gotten into that great estuary.

I wanted to share those thoughts. I believe we can do better. I believe oil production in the gulf is essential for the national interest. I believe this spill, this accident should not have happened. I believe if people had been exceedingly careful and competent in what they did, this would not have happened. I believe after this accident, there is going to be a complete review by every company out there. I think we will have an even lower possibility of accidents in the future. But we need more confidence that blowout preventers work, and that we have safety mechanisms in place. We need more confidence that this will happen. We need to understand there is always a possibility that some sort of blowout or spill will occur, but we can do better to prevent it. We can do better about plugging the leak or capturing the oil where it comes out of the pipe. I believe all of these are possible.

I am not happy. I am disappointed that we weren't better prepared in case such an accident did occur. Very disappointed. I believe the oil industry, in particular BP's plan, as the Mobile Press Register has pointed out, was not well thought out. Their plan talked about what to do with walruses and things such as that. We don't have any walruses on the gulf coast. This was not a well thought out plan. Criticism is justified in many different areas.

I thank the Chair for the opportunity to share my thoughts. Again, I appreciate the President visiting the gulf coast. Hopefully, they are breaking down some of these dysfunctional areas to get us to a higher level of response and effectiveness, and maybe they will also be able to continue to make progress in reducing the amount of flow coming out of this well. Obviously, that is the most critical point.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mrs. GILLIBRAND). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BARRASSO. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BARRASSO. Madam President, the tax extenders bill includes a settlement that involves a class action lawsuit that is known as Cobell v. Salazar. The total cost of this settlement is about $3.4 billion. This settlement will affect hundreds of thousands of Indian people across the United States who are class members in this lawsuit. It was signed last December by the Obama administration with the lead plaintiffs and their attorneys. Part of the settlement provides $1.4 billion to individual Indians whose trust assets have been mismanaged by the Federal Government for over 100 years. Another $2 billion would be used by the Department of the Interior to consolidate Indian land ownership to prevent a repeat of these claims.

On Wednesday, June 9, 2010, Attorney General Holder and Secretary Salazar sent letters to the Senate leaders opposing an amendment I filed on Tuesday, June 8. My amendment corrects serious flaws in the settlement. I am going to respond to their letter as well as explain my amendment.

The Attorney General and the Secretary argue that the amendment makes material changes to the settlement that would render it void. To begin with, I must point out that the parties have changed their settlement in material ways several times—several times—since it was announced that the agreement had been reached. Whenever they deem fit, they change it. For the reasons I am about to go into, they should change it again. If they don't, then Congress should act.

In their letter to leadership, the Attorney General and Secretary Salazar say:

> The nature of any settlement agreement is that no one gets everything they asked for.

I know the Cobell case has waged on and on in the courts for 14 years. It has been up and down on appeal many times—too many times. In fact, it is on appeal right now. So I support settling this case. I support providing fair compensation to people harmed by decades of Federal mismanagement. I support consolidating the fractionated ownership of land to prevent the recurrence of problems that led to this court case. But I cannot support the settlement as drafted by the administration. It has flaws, and I believe some of them are very serious. All of them can and should be fixed without making major changes to its overall structure. Leaders in Indian country agree.

I ask unanimous consent that a letter dated June 11, 2010, from the National Congress of American Indians to Senator DORGAN and to me be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BARRASSO. Madam President, the National Congress of American Indians' letter states that the changes in my amendment address legitimate concerns that have been raised by tribal leaders and Indian people. The NCAI letter references resolutions passed by the Affiliated Tribes of Northwest Indians and the Great Plains Tribal Chairmen's Association supporting my amendment.

So what does my amendment do? It addresses five significant weaknesses in the settlement. The first issue is attorneys fees. This settlement was signed by the Department of Justice and two of the plaintiffs on December 7, 2009. Originally, the settlement said that Congress had to approve it in 24 days—by New Year's Eve. Well, supporters said there was no time for a hearing; Congress had to act immediately. I disagreed. Any $3.4 billion settlement paid for by taxpayers that affects the lives of hundreds of thousands of people should have a hearing before Congress.

I requested that the Committee on Indian Affairs hold a hearing on the settlement. Chairman DORGAN scheduled one nearly 6 months ago and that hearing was December 17, 2009. During the hearing, it was disclosed that the parties had entered into a separate agreement covering attorneys fees. In the side agreement, the plaintiffs' lawyers agreed not to ask the court for more than $99.9 million in presettlement attorneys' fees and costs, and the administration agreed not to argue that the attorneys should get anything less than $50 million. So, in effect, the two parties quietly agreed that the plaintiffs' attorneys should be paid between $50 million and $100 million.

This separate agreement also provided that when attorneys asked the court for presettlement fees, the attorneys must provide contemporaneous time records, but they said only ''where available.'' This is a very remarkable agreement, especially for a court case that was pretty much all about inadequate government recordkeeping in the first place.

What the government has done is agreed not to demand contemporaneously prepared time records when the attorneys ask the court for their fees—fees that will be taken directly out of the funds that are supposed to be distributed to the class members in the suit. This settlement should be about compensating the individual Indians who were harmed by government mismanagement. My amendment requires production of contemporaneous records and it caps the fees at $50 million. Fifty million dollars is an amount that both parties agreed would not be appealed. It is their number, so it must be fair.

Besides the issue of attorneys fees, there have been other concerns raised about the settlement—about the possibility of a multimillion dollar incentive award to named plaintiffs; about the qualification of the bank where the money will be deposited; about the role of Indian tribes and the land consolidation aspect of the settlement; and about the formula for distributing the money. My amendment addresses each of these issues.

The amendment would also require that any ''incentive awards'' to named plaintiffs be justified by documented expenses. Leading the case of Indian landowners against the government for 14 years has undoubtedly been an exhausting burden and an expensive burden. The named plaintiffs should be allowed to ask the court to have those expenses reimbursed. My amendment would limit any such award to an aggregate amount of $15 million and only for the expenses incurred by the class representatives. This is the amount the plaintiffs told us is their total estimated out-of-pocket expenses. The amendment would allow full reimbursement of these expenses.

My amendment also addresses the selection of the bank that will hold the $1.4 billion in settlement funds. The settlement is especially lax in setting standards to ensure the safety of these funds—lax, I believe, to the point of being irresponsible. My amendment simply requires the court to consider certain factors when approving a proposed bank: experience, a history of regulatory compliance, plus competitive interest rates and fees. These factors are important because if anything happens to the money, then the class members bear the risk of the loss. I cannot fathom why asking the court to simply consider these commonsense protections will void the settlement.

The amendment I have offered will require the Secretary of the Interior to consult with Indian tribes on implementation of the Indian land consolidation program. In order for this $2 billion consolidation program to succeed, the tribal governments should be partners in implementation. The amendment would require that to happen.

Finally, my amendment would provide relief for certain class members for whom the pro rata formula used in the settlement does not work. This formula is simple and will be easy to use. That is why the administration likes it. In many cases, the formula won't work and will lead to unfair results. It is necessary that we create a system for individual class members with unique circumstances to petition the court for a nonstandard settlement payment.

Under my amendment, the court would be provided with broad flexibility to make discretionary awards in appropriate cases.

In closing, I urge Members of the Senate to support this amendment to the Cobell settlement provisions in this measure. My amendment doesn't change the structure of the settlement. It does improve, however, the agreement for the hundreds of thousands of class members covered by the settlement.

What my amendment doesn't do is void the agreement. Let me repeat, my

amendment does not void the agreement; it does not void the settlement. Plaintiffs have the ability to void the settlement if they don't believe the changes are in the best interests of the class members. The administration can void it if they don't believe there should be financial standards for selection of the bank that will hold and manage $1.4 billion of settlement funds. By passing this amendment, we will not void the agreement.

Congress has the obligation to never rubberstamp an agreement and to not rubberstamp this agreement.

Adopting my amendment is the right thing to do.

I yield the floor.

EXHIBIT 1

NATIONAL CONGRESS
OF AMERICAN INDIANS,
Washington, DC, June 11, 2010.

Re Cobell Settlement and Senator Barrasso's Amendment 4313 to the American Jobs and Closing Tax Loopholes Act of 2010.

Hon. BYRON DORGAN,
Chair, Committee on Indian Affairs, U.S. Senate, Washington, DC.
Hon. JOHN BARRASSO,
Vice Chair, Committee on Indian Affairs, U.S. Senate, Washington, DC.

DEAR CHAIRMAN DORGAN AND VICE CHAIRMAN BARRASSO: As you know, a very important vote may soon occur in the Senate. Currently the Senate is considering H.R. 4213, the American Jobs and Closing Tax Loopholes Act of 2010. For Indian people across the country the most important provision in the legislation is Section 607, which would authorize the settlement of the Cobell v. Salazar litigation over federal mismanagement of Indian trust funds. Senator Barrasso has proposed an amendment that would address some concerns about the settlement that have been raised by tribal leaders and Indian people. These are legitimate concerns that have come from the grassroots in Indian country, and it is our hope that the parties and the Senate try to find common ground on these concerns.

The National Congress of American Indians has long supported a settlement of this litigation because it is time to bring justice to Indian people and because the contentious litigation has distracted from efforts to address the many other issues that Indian country faces. When the settlement was first announced in December of 2009, there was a general feeling of elation and relief throughout Indian country. We are extremely grateful to the Administration and to Eloise Cobell and her team for working so hard on this settlement and bringing it to the brink of resolution.

However, we also believe that Ms. Cobell described it well when she said that this is a ''bittersweet victory'' for Indian country. There is no doubt that the injuries to Indian people have been much greater than the compensation they will receive. In addition, over the past several months, Indian tribes and Indian people have had an opportunity to more closely examine the details of the settlement. Hearings have been held in Congress, and meetings have taken place on reservations across the country. As might be expected with a class action settlement of this size and complexity, the details have generated considerable discussion and some disagreements.

Senator Barrasso has solicited the views of tribal leaders on the details of the settlement and has filed a proposed amendment. The Affiliated Tribes of Northwest Indians and the Great Plains Tribal Chairman's Association, two large and well respected regional tribal organizations, have both passed resolutions favoring Senator Barrasso's amendment. A similar resolution has been submitted to NCAI for consideration during our Midyear Session during the week of June 20. However, NCAI's consideration of the resolution may happen after Congress has voted.

As you know, both the Administration and the Cobell plaintiffs have raised concerns that any amendments to the Cobell settlement legislation would render the settlement null and void. We understand the need for the parties to a difficult settlement to adopt this posture. However, we have little doubt that if Congress were to make modest and reasonable adjustments, the parties will readily amend the settlement agreement to conform to the implementing legislation.

NCAI's interest is that Congress passes a settlement that is responsive to legitimate concerns raised by tribal leaders and members of the class, and that a contested floor vote on these issues may not be conducive to our shared goal of settling the litigation. I will briefly address the elements of Senator Barrasso's amendment. Amendment 4313 would:

1. Cap attorneys' fees at $50 million and incentive awards at expenses up to $15 million. The settlement was accompanied by a side agreement that the federal government would not contest an award of attorney's fees in a range between $50 to $100 million. These attorneys' fees have generated considerable discussion. Most account holders will receive an award in the range of $1500, which is less than what was expected. Over the years, the Cobell plaintiffs have frequently estimated the size of the damages in the hundreds of billions, so disappointment at the size of the award has combined with views about the size of the attorneys' fees. This is a difficult issue because we also recognize that the Cobell attorneys have worked very hard on the litigation for the last 14 years, and class action attorneys in Indian law cases should be fairly compensated on a par with similar class actions. We suggest that the numbers are not far apart, and an accommodation could be reached.

2. Require that a special master select the bank that will handle the $1.4 billion award. The settlement agreement indicates that the award will be deposited in a bank selected by the plaintiffs and approved by the court. Senator Barrasso's amendment would require that court should consider certain criteria for experience in the handling of large deposits, compliance with banking laws, and competitiveness of fees. This appears to be a reasonable provision to ensure competent and efficient management of the funds.

3. Allow tribes to participate in the land consolidation program that will occur on their reservations. NCAI strongly supports Senator Barrasso's proposal to permit tribes to participate in the land consolidation program that will be funded by the settlement. Land consolidation is critical for addressing trust management problems created by fractionation and preventing future mismanagement. However, Indian tribes have had concerns about the ability of the Bureau of Indian Affairs to administer the land consolidation program on the scale and in the timeframe required by the settlement. Since 1975, Indian tribes have been able to contract with the BIA to manage BIA programs on their reservations. The Indian Land Consolidation Program is one of the few programs that does not allow tribal participation in this way. We believe that allowing tribal governments to participate in land consolidation will greatly benefit the program because tribes have the greatest interest in its success, and because tribes know the local conditions on their reservations much better than a centrally-located BIA.

4. Set aside a $50 million fund for class members who may not be fairly compensated by the formula distribution. The inclusion of natural resource mismanagement claims within the settlement has been controversial within Indian country because it was not a part of the original Cobell claim, and because the formula would be unfair to some landowners. Although the resource mismanagement settlement allows an opt-out, it would be extraordinarily difficult for Indian landowners to pursue mismanagement claims on their own. Senator Barrasso's amendment would set-aside $50 million out of the settlement to make equitable adjustments for certain landowners who would not be adequately compensated by the formula. So long as it does not substantially slow down the operation of the formula distribution, we believe it is reasonable to set aside a small portion of the settlement to smooth out some of the inequities of the formula system.

Thank you very much for considering our views on this important issue. We greatly appreciate the enormous efforts that all of you have put into resolving the Indian trust funds litigation.

Sincerely,

JEFFERSON KEEL,
NCAI President.

Mr. BARRASSO. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. KAUFMAN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KAUFMAN. Madam President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ARTHUR S. FLEMMING AWARDS 2009

Mr. KAUFMAN. Madam President, I rise today once again to recognize some of our Nation's great Federal employees.

This week, the Trachtenberg School at the George Washington University announced the winners of the annual Arthur S. Flemming Awards. These distinguished awards for public service have been bestowed upon outstanding Federal employees for the past 61 years. The Flemming Awards recognize career Federal employees, both civilian and military, who have served between 3 and 15 years in government. Nominees come from across the many departments, agencies, and service branches. Notable winners include former Senators Elizabeth Dole and Daniel Patrick Moynihan, Defense Secretary Robert Gates, former Federal Reserve Chairman Paul Volcker, astronaut Neil Armstrong, among others.

The awards are named for Arthur S. Flemming, who had a long and exemplary career in public service which spanned from 1939 until his death in 1996. He served in a number of important roles, including Secretary of Health, Education, and Welfare under President Eisenhower.

Secretary Flemming also served on the U.S. Civil Service Commission under Presidents Roosevelt and Truman, the National Advisory Committee on the Peace Corps under Presidents Kennedy and Johnson, and as Chairman of the U.S. Commission on Civil Rights under Presidents Nixon, Ford, Carter, and Reagan. President Clinton awarded him the Medal of Freedom in 1994.

It is fitting that these awards, which were originally bestowed by the DC Jaycees, are named for Flemming. His lifetime of dedication to public service continues to inspire so many.

The Flemming Awards are divided into three categories: applied science, engineering, and mathematics; basic science; and managerial or legal achievement. These categories highlight some of the most outstanding and exciting accomplishments by our public servants who are helping to lead the way in scientific discovery, efficient public management, and upholding justice.

This year's medals in applied science, engineering, and mathematics were won by a trio of brilliant individuals who are keeping America at the forefront of STEM research.

Dr. Lynn Antonelli is leading the way in developing laser-based sensors for the Navy. The sensors she and her team created have found commercial and medical applications, in addition to providing our Navy vessels with extended optics and sensing underwater.

Dr. Steven Brown of the National Institute of Standards and Technology—or NIST—also works with light. He and his team have made great strides in the field of light measurement that have enabled more detailed environmental imaging of the Earth. His work is revolutionizing the ability to detect minute changes in the environment as a result of climate change.

Also winning the applied science, engineering, and mathematics award is Dr. John Kitching. John has been leading the world's top research program in atomic measurement. He and his team developed ultra-miniature devices that can improve the accuracy of GPS, telecommunications, and medical imaging. They even have important national security uses, including in the more accurate detection of chemical toxins.

The three Federal employees who won this year's award for basic science are pioneers on the cutting edge of science research.

Dr. Dietrich Leibfried is one of NIST's leading experts on quantum computing. This exciting field could lead to supercomputers faster and more powerful than the best ones we have today. Dietrich Leibfried is responsible for many innovations in quantum computing, including the successful demonstration of a simple, fully programmable quantum computer, the first step in a long-term effort to build supercomputers that can handle nationally important applications, such as weather prediction, secure data encryption, and developing new drugs.

The basic science award is also going to Dr. Shyam Sharan of the National Cancer Institute at the National Institutes of Health. He has developed a simple and reliable way to analyze genetic mutations that increase a patient's chances of developing breast cancer. This will help doctors identify those who have the highest risk of cancer and treat them preventively.

Sharing the award with them is Dr. Eite Tiesinga, who works at NIST on ultra-cold atoms. By manipulating these atoms, scientists can carefully tune the quantum gases that might one day power quantum computers. Eite is frequently asked by researchers around the world to consult on their measurements and findings, and his work on ultra-cold atoms has put the United States ahead in the race to achieve successful quantum computing.

Four outstanding public employees were chosen for this year's managerial and legal achievement medal.

Angela Clowers works at the Government Accountability Office, and she led the GAO's efforts to audit transportation investments made under the Recovery Act. Her careful analysis and testimony before Congress prompted the Department of Transportation to refocus some of its investments in order to stimulate additional job growth. Angela also led the GAO's audit of government assistance to the American auto industry under TARP.

Another who won this award is Dr. Marla Dowell of NIST'S laboratory in Boulder, CO. Marla leads the world's most comprehensive research program in laser metrology. She won this award for outstanding management skills and for leading a team that is developing lasers for highly accurate measurement of manufacturing equipment. This will have profound and positive effects on both defense programs and high-tech businesses.

Kana Enomoto won the award for a distinguished career working on mental health access. She served as a leader in this area in the aftermath of Hurricane Katrina through her work at the Substance Abuse and Mental Health Services Administration. Kana also spearheaded efforts to improve the agency's operations, human resource management, and other critical functions as the Acting Deputy Administrator.

The fourth winner of this award is Natalie Harrop of the Air Force Global Logistics Center in Utah. Natalie distinguished herself as a lead budget analyst for the Air Force's 748th Supply Chain Management Group. She revolutionized the group's financial management, and her new system is being implemented across the 448th Supply Chain Management Wing. It is saving hundreds of work hours and over $5 million.

These 10 men and women are not an exception, they are exemplary. They represent the norm of excellence of our civil service. They have achieved great things and now join the ranks of those who share the Arthur S. Flemming Award for their great contribution to our Nation.

I hope my colleagues will join me in congratulating the winners of the 2009 Arthur S. Flemming Awards and thanking them all for their service. They are all truly great Federal employees.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BEGICH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KAUFMAN). Without objection, it is so ordered.

Mr. BEGICH. Mr. President, I ask unanimous consent that the following amendments be debated concurrently for the total time specified in this agreement: Sanders, 4318; Vitter, 4312; Franken, 4311; that the Franken amendment be modified with the changes at the desk; with the debate time divided as follows: 20 minutes equally divided between Senators SANDERS and INHOFE; 20 minutes equally divided between Senators BAUCUS and VITTER or their designees; and 20 minutes equally divided between Senators FRANKEN and VITTER or their designees, with no intervening amendments in order; that each of the listed amendments in this agreement be subject to an affirmative 60-vote threshold; and that if the amendment, as modified where applicable, achieves that threshold, then it be agreed to and the motion to reconsider be laid upon the table; that if the amendment does not achieve that threshold, then it be withdrawn; that prior to each vote, there be 2 minutes of debate, equally divided and controlled, and that after the first vote, the succeeding votes be limited to 10 minutes each; that upon the use or yielding back of the total time specified above, the Senate proceed to vote in relation to the amendments in the order listed.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 4311), as modified, is as follows:

At the appropriate place, insert the following:

TITLE ___—OFFICE OF THE HOMEOWNER ADVOCATE

SEC. __01. OFFICE OF THE HOMEOWNER ADVOCATE.

(a) ESTABLISHMENT.—There is established in the Department of the Treasury an office to be known as the ''Office of the Homeowner Advocate'' (in this subtitle referred to as the ''Office'').

(b) DIRECTOR.—

(1) IN GENERAL.—The Director of the Office of the Homeowner Advocate (in this subtitle referred to as the ''Director'') shall report directly to the Assistant Secretary of the Treasury for Financial Stability, and shall be entitled to compensation at the same rate as the highest rate of basic pay established for the Senior Executive Service under section 5382 of title 5, United States Code.

(2) APPOINTMENT.—The Director shall be appointed by the Secretary, after consultation with the Secretary of the Department of Housing and Urban Development, and without regard to the provisions of title 5, United States Code, relating to appointments in the competitive service or the Senior Executive Service.

(3) QUALIFICATIONS.—An individual appointed under paragraph (2) shall have—

(A) experience as an advocate for homeowners; and

(B) experience dealing with mortgage servicers.

(4) RESTRICTION ON EMPLOYMENT.—An individual may be appointed as Director only if such individual was not an officer or employee of either a mortgage servicer or the Department of the Treasury during the 4-year period preceding the date of such appointment.

(5) HIRING AUTHORITY.—The Director shall have the authority to hire staff, obtain support by contract, and manage the budget of the Office of the Homeowner Advocate.

SEC. __02. FUNCTIONS OF THE OFFICE.

(a) IN GENERAL.—It shall be the function of the Office—

(1) to assist homeowners, housing counselors, and housing lawyers in resolving problems with the Home Affordable Modification Program of the Making Home Affordable initiative of the Secretary, authorized under the Emergency Economic Stabilization Act of 2008 (in this subtitle referred to as the ''Home Affordable Modification Program'')

(2) to identify areas, both individual and systematic, in which homeowners, housing counselors, and housing lawyers have problems in dealings with the Home Affordable Modification Program;

(3) to the extent possible, to propose changes in the administrative practices of the Home Affordable Modification Program, to mitigate problems identified under paragraph (2);

(4) to identify potential legislative changes which may be appropriate to mitigate such problems; and

(5) to implement other programs and initiatives that the Director deems important to assisting homeowners, housing counselors, and housing lawyers in resolving problems with the Home Affordable Modification Program, which may include—

(A) running a triage hotline for homeowners at risk of foreclosure;

(B) providing homeowners with access to housing counseling programs of the Department of Housing and Urban Development at no cost to the homeowner;

(C) developing Internet tools related to the Home Affordable Modification Program; and

(D) developing training and educational materials.

(b) AUTHORITY.—

(1) IN GENERAL.—Staff designated by the Director shall have the authority to implement servicer remedies, on a case-by-case basis, subject to the approval of the Assistant Secretary of the Treasury for Financial Stability.

(2) RESOLUTION OF HOMEOWNER CONCERNS.—The Office shall, to the extent possible, resolve all homeowner concerns not later than 30 days after the opening of a case with such homeowner.

(c) COMMENCEMENT OF OPERATIONS.—The Office shall commence its operations, as required by this subtitle, not later than 3 months after the date of enactment of this Act.

(d) SUNSET.—The Office shall cease operations as of the date on which the Home Affordable Modification Program ceases to operate.

SEC. __03. RELATIONSHIP WITH EXISTING ENTITIES.

(a) TRANSFER.—The Office shall coordinate and centralize all complaint escalations relating to the Home Affordable Modification Program.

(b) HOTLINE.—The HOPE hotline (or any successor triage hotline) shall reroute all complaints relating to the Home Affordable Modification Program to the Office.

(c) COORDINATION.—The Office shall coordinate with the compliance office of the Office of Financial Stability of the Department of the Treasury and the Homeownership Preservation Office of the Department of the Treasury.

SEC. __04. RULE OF CONSTRUCTION.

Nothing in this section shall prohibit a mortgage servicer from evaluating a homeowner for eligibility under the Home Affordable Foreclosure Alternatives Program while a case is still open with the Office of the Homeowner Advocate. Nothing in this section may be construed to relieve any loan services from otherwise applicable rules, directives, or similar guidance under the Home Affordable Modification Program relating to the continuation or completion of foreclosure proceedings.

SEC. __05. REPORTS TO CONGRESS.

(a) TESTIMONY.—The Director shall be available to testify before the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives, not less frequently than 4 times a year, or at any time at the request of the Chairs of either committee.

(b) REPORTS.—Once annually, the Director shall provide a detailed report to Congress on the Home Affordable Modification Program. Such report shall contain full and substantive analysis, in addition to statistical information, including, at a minimum—

(1) data and analysis of the types and volume of complaints received from homeowners, housing counselors, and housing lawyers, broken down by category of servicer, except that servicers may not be identified by name in the report;

(2) a summary of not fewer than 20 of the most serious problems encountered by Home Affordable Modification Program participants, including a description of the nature of such problems;

(3) to the extent known, identification of the 10 most litigated issues for Home Affordable Modification Program participants, including recommendations for mitigating such disputes;

(4) data and analysis on the resolutions of the complaints received from homeowners, housing counselors, and housing lawyers;

(5) identification of any programs or initiatives that the Office has taken to improve the Home Affordable Modification Program;

(6) recommendations for such administrative and legislative action as may be appropriate to resolve problems encountered by Home Affordable Modification Program participants; and

(7) such other information as the Director may deem advisable.

SEC. __06. FUNDING.

Amounts made available for the costs of administration of the Home Affordable Modification Program that are not otherwise obligated shall be available to carry out the duties of the Office. Funding shall be maintained at levels adequate to reasonably carry out the functions of the Office.

SEC. __07. PROHIBITION ON PARTICIPATION IN MAKING HOME AFFORDABLE FOR BORROWERS WHO STRATEGICALLY DEFAULT.

No mortgage may be modified under the Making Home Affordable Program, or with any funds from the Troubled Asset Relief Program, unless the servicer of the mortgage loan has determined, in accordance with standards and requirements established by the Secretary of the Treasury, that the mortgagor cannot afford to make payments under the terms of the existing mortgage loan. The Secretary of the Treasury, in consultation with the Secretary of Housing and Urban Development, shall issue rules to carry out this section not later than 90 days after the date of enactment of this Act.

SEC. __08. PUBLIC AVAILABILITY OF INFORMATION.

(a) PUBLIC AVAILABILITY OF DATA.—The Secretary of the Treasury shall revise the guidelines for the Home Affordable Modification Program of the Making Home Affordable initiative of the Secretary of the Treasury, authorized under the Emergency Economic Stabilization Act of 2008 (Public Law 110–343), to establish that the data collected by the Secretary of the Treasury from each mortgage servicer and lender participating in the Program is made public in accordance with subsection (2).

(b) CONTENT.—Not more than 60 days after each monthly deadline for submission of data by mortgage servicers and lender participating in the program, the Treasury shall make all data tables available to the public at the individual record level. This data shall include but not be limited to—

(1) higher risk loans, including loans made in connection with any program to provide expanded loan approvals, shall be reported separately;

(2) disclose—

(A) the rate or pace at which such mortgages are becoming seriously delinquent;

(B) whether such rate or pace is increasing or decreasing;

(C) if there are certain subsets within the loans covered by this section that have greater or lesser rates or paces of delinquency; and

(D) if such subsets exist, the characteristics of such subset of mortgages;

(3) with respect to the loss mitigation efforts of the loan—

(A) the processes and practices that the reporter has in effect to minimize losses on mortgages covered by this section; and

(B) the manner and methods by which such processes and practices are being monitored for effectiveness;

(4) disclose, with respect to loans that are or become 60 or more days past due, (provided that for purposes of disclosure under this paragraph that each loan should have a unique number that is not the same as any loan number the borrower, originator, or servicer uses), the following attributes—

(A) the original loan amount;

(B) the current loan amount;

(C) the loan-to-value ratio and combined loan-to-value ratio, both at origination and currently, and the number of liens on the property;

(D) the property valuation at the time of origination of the loan, and all subsequent property valuations and the date of each valuation;

(E) each relevant credit score of each borrower obtained at any time in connection with the loan, with the date of the credit score, to the extent allowed by existing law;

(F) whether the loan has any mortgage or other credit insurance or guarantee;

(G) the current interest rate on such loan;

(H) any rate caps and floors if the loan is an adjustable rate mortgage loan;

(I) the adjustable rate mortgage index or indices for such loan;

(J) whether the loan is currently past due, and if so how many days such loan is past due;

(K) the total number of days the loan has been past due at any time;

(L) whether the loan is subject to a balloon payment;

(M) the date of each modification of the loan;

(N) whether any amounts of loan principal has been deferred or written off, and if so, the date and amount of each deferral and the date and amount of each writedown;

(O) whether the interest rate was changed from a rate that could adjust to a fixed rate, and if so, the period of time for which the rate will be fixed;

(P) the amount by which the interest rate on the loan was reduced, and for what period of time it was reduced;

(Q) if the interest rate was reduced or fixed for a period of time less than the remaining loan term, on what dates, and to what rates, could the rate potentially increase in the future;

(R) whether the loan term was modified, and if so, whether it was extended or shortened, and by what amount of time;

(S) whether the loan is in the process of foreclosure or similar procedure, whether judicial or otherwise; and

(T) whether a foreclosure or similar procedure, whether judicial or otherwise, has been completed.

(c) GUIDELINES AND REGULATIONS.—The Secretary of the Treasury shall establish guidelines and regulations necessary—

(1) to ensure that the privacy of individual consumers is appropriately protected in the reports under this section;

(2) to make the data reported under this subsection available on a public website with no cost to access the data, in a consistent format;

(3) to update the data no less frequently than monthly;

(4) to establish procedures for disclosing such data to the public on a public website with no cost to access the data; and

(5) to allow the Secretary to make such deletions as the Secretary may determine to be appropriate to protect any privacy interest of any loan modification applicant, including the deletion or alteration of the applicant's name and identification number.

(d) EXCEPTION.—No data shall have to be disclosed if it voids or violates existing contracts between the Secretary of Treasury and mortgage servicers as part of the Making Home Affordable Program.

Mr. BEGICH. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. SANDERS. Mr. President, this country has a $13 trillion national debt and a record-breaking deficit, and it is time we began to address that issue.

This country has the potential now to transform our energy system away from fossil fuel, away from offshore drilling into energy efficiency and sustainable energy, and when we do that, we create millions of good-paying jobs over a period of years. That is what this amendment does.

Over the last decade, the five largest oil companies in America—ExxonMobil, Chevron, ConocoPhillips, BP, and Shell—made over $750 billion in profits. These profitable companies do not deserve to continue to have major tax breaks that in some cases not only prevent them from paying anything in taxes but enable them to get huge tax refunds from the IRS.

What the Sanders-Menendez-Whitehouse-Wyden-Lautenberg amendment would do is eliminate three major loopholes. It would bring $35 billion into our coffers over a 10-year period. It would use $25 billion of those $35 billion for deficit reduction. It would use $10 billion to fund energy conservation and sustainable energy and in the process create over 100,000 new jobs over a period of years.

It may make sense to somebody, but it does not make sense to me that we have a company such as ExxonMobil, which has been the most profitable company in the history of the world, making huge profits and last year not only paying nothing in taxes but getting a refund from the Treasury of $156 million. Let me repeat that. ExxonMobil, the most profitable corporation in the history of the world—year after year, huge profits—last year not only paid nothing in taxes but received a $156 million check from the taxpayers of this country to help them. That is absurd.

ExxonMobil is not the only company to enjoy that kind of outrageous tax treatment. Chevron received a $19 million tax refund; Valero Energy, a $157 million refund; and ConocoPhillips received over $450 million in tax breaks from the oil and gas manufacturing deduction over the past 3 years.

I am going to yield the floor in a moment because I want to refute some of what my friend from Oklahoma will be saying.

Here is what the bottom line is. The bottom line is we have a huge deficit and huge tax breaks for profitable corporations. We have the opportunity now to do what President Obama put into his 2011 budget and eliminate those tax breaks, bring $35 billion more into the Treasury—$25 billion for deficit reduction and $10 billion to create over 100,000 new jobs as we make our country more energy efficient and we move to sustainable energy.

With that, I yield the remainder of my time.

Mr. INHOFE. The Senator is yielding the remainder of is time?

Mr. SANDERS. I reserve the remainder of my time. I reserve the remainder of my time.

Mr. INHOFE. I thank my friend from Vermont. I know my friend from Vermont would not intentionally say something that is not true. Sometimes he does not have and sometimes I do not have the actual facts, so inadvertently we might misrepresent.

Let me just say as far as Exxon is concerned that from 2004 to 2008, they paid more than $18 billion in U.S. Federal income taxes, and that is just some of the taxes they pay.

I have to say this, though. The whole discussion on this—the Sanders bill would effectively put the small and the marginal producers in America out of business. Before I go into that in any detail, let me just share this. It is interesting, when I listen to liberals talk about doing away with drilling, with oil and gas and coal and nuclear—if you do that, you cannot run this machine called America. Every time they talk about doing something to stop production, as they are doing right now in the gulf—a lot of these people are using and exploiting the tragedy in the gulf to try to retard or stop all production in America. Consequently, this is something where we would be in a position where we would be so rationed in oil and gas that we would have to be more dependent on many of these countries on which we do not want to be dependent.

We did a study. I think this would surprise the Chair. If we didn't have any political restrictions on what we could do in North America, we could completely eliminate our reliance upon the Middle East for any gas or oil within 4 years. That is pretty shocking. Our problem is not that we do not have enough oil and gas. We have more reserves than any other country. A CRS report came out with that just the other day.

What I want to do is give my honorable friend a chance to respond to my statement, and then I will reserve the remainder of my time to discuss in a little more detail how this affects the very small, marginal operators in America.

Mr. SANDERS. I will take just a few minutes now.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. SANDERS. I will reserve the remainder of my time. But let me say this to my friend from Oklahoma, who I know is an honest guy. We disagree. We have differences of opinion. It was not my suggestion that ExxonMobil did not pay taxes over those years. That was not my suggestion. But let me say this. He mentioned that they do pay taxes, which is true. But let's understand that ExxonMobil was the most profitable corporation in the history of the world from 2006 through 2008, making $40 billion in profits in 2006, $41 billion in 2007, and $45 billion in 2008. In the midst of a recession, my understanding is they made $19 billion in profits last year.

Would my friend from Oklahoma deny that despite making these huge profits last year, $19 billion, they received—they paid zero in 2009 and in fact received a $156 million refund from the taxpayers of this country? I hope my friend from Oklahoma would comment on whether that is good public policy.

With that, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I would say first of all, whether that is good policy—I think you have to have the accurate input before you make a policy determination. The oil and gas industry is very complicated. In order for them to go out and risk their capital, they have to plow this money back in. Frankly, most of it is plowed back into exploration.

What I wanted to get across, which I think is important, is that the Sanders

amendment repeals three things—first of all, expensing for intangible drilling costs; that is IDC. It repeals percentage depletion for marginal oil and gas wells. It repeals the manufacturing deduction for oil and gas.

I predicted a long time ago, when the gulf spill took place, that people were going to try to parlay this into something to punish oil and gas. This is what they have been trying to do for a long time. It could very well be that tonight, when the President makes his big speech, he is going to talk about, now we are going to have to look at cap and trade, as if there is some relationship between what happened in the gulf and cap and trade.

Repealing expensing of intangible drilling costs eliminates the ability to expense intangible drilling and development costs, which would force at least a 25- to 30-percent reduction in drilling budgets, leading to lost jobs, lost production, and higher prices to consumers. On the floor of the Senate yesterday, I spent some time talking about how many jobs actually would be lost in the State of Louisiana. But the IDC is an expensing-out item that has been in our Tax Code since 1913. It really only applies to the smaller operators, so they are the ones who are singled out for oil and gas production.

Likewise, since 1926 small producers and millions of royalty owners have had the option to utilize percentage depletion to both simplify and account for the decline in the value of minerals from a property. As you know, they do deplete as you produce minerals.

Who is going to pay the most for this? I will share with you who pays for this, but right now I will yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. SANDERS. Let me say to my friend from Oklahoma, who talked about the oil companies plowing their money back into new wells, that the big five oil companies spent $270 billion over the past decade buying back their own stock—about $100 billion more than they spent on oil exploration.

My friend from Oklahoma talks about jobs. That is obviously an important issue. I would concede there may be some job loss here, but it is matched by an investment in sustainable energy that will create far more employment than the relatively small number of jobs that might be lost.

I would mention Dr. Krueger, the Chief Economist at the Treasury Department. He has estimated that repealing these tax breaks would lead to a decline in employment in oil and gas production of less than one-half of 1 percent at most. That translates into the potential loss of 1,650 jobs in the oil and gas industry. I do not mean to minimize that. One job lost is one job too many. But on the other hand, in this bill we put $10 billion into the Energy Efficiency and Conservation Block Grant Program, where the estimate is we can create 140,000 jobs over the same period of time. On one hand, we might lose 1,600 jobs; on the other hand, we gain 140,000 jobs.

With that, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Let me mention one thing I want to make sure I get in here before we run out of time. We went through this class warfare once back in 1980. We had Jimmy Carter as President of the United States. He had the windfall profits tax. I am sure my friend from Vermont remembers that at that time. I remember it well. That is when they were going to have a windfall profits tax on the oil and gas industry. The results of that:

> The WPT reduced domestic production between 3 and 6 percent and increased oil imports from 8 to 16 percent. . . . This made the United States more dependent upon imported oil.

That is the Congressional Research Service, which is nonpartisan.

That is a major issue here in terms of our dependence on other countries for our ability to run this machine called America.

Let's get back to the percentage depletion. The percentage depletion is particularly important for the production of America's over 600,000 low-volume marginal wells. The average marginal well produces 2 barrels a day.

Let me tell you what that is so my colleagues, when they get ready to vote, will really understand whom they are affecting. A marginal well is a well producing under 15 barrels per day. The average is 2 barrels a day. My friend is talking about all these big giants. I am not nearly as concerned about the big five and the majors as I am about my marginal operators in my State of Oklahoma. With an average of 2 barrels a day, the marginal producers actually account for 28 percent of all domestic production in the lower 48 States—28 percent. These are all small people.

If you are concerned also about whom you are affecting by this legislation, look at the royalty owners. There are literally millions of royalty owners. They have maybe a small piece of property, maybe their homestead. They are the ones who would be denied the use of their land. By putting the small ones out of business, they are the ones you are damaging.

I will reserve the remainder of my time.

Mr. SANDERS. Mr. President, how much time does Senator INHOFE have?

The PRESIDING OFFICER. The Senator from Oklahoma has 1½ minutes and the Senator from Vermont 3 minutes.

Mr. SANDERS. I have 3 minutes?

The PRESIDING OFFICER. Yes.

Mr. SANDERS. Mr. President, what we are talking about now is beginning to address the deficit issue in a significant way, and $25 billion over a 10-year period is a good start. I think we cannot continue to have people coming down to the floor of the Senate and saying: Think about the legacy we are leaving our children and grandchildren. And then when it really comes to the point of doing something, of saying to ExxonMobil, which made $19 billion in profit last year and got a $156 million refund from the IRS, you can't have it both ways, this is a time to stand up and do the right thing. Again, it is not just ExxonMobil. It is Chevron, which received a $19 million refund from the IRS. It is Valero Energy, the 25th largest company in America with $68 billion of sales last year and received a $157 million refund check.

What we have the opportunity to do now is to, in fact, address the deficit crisis—$25 billion over a 10-year period; create over 100,000 new jobs over that period as we move into energy efficiency and sustainable energy.

With that, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Let me correct this again. I had already stated that the statement my good friend from Vermont made was a false statement, inadvertently, in terms of Exxon and what they had paid. I commented that they paid more than $18 billion in the years between 2004 and 2008. He returned and said in 2009 is when they have not paid any. They have already paid $½ billion in 2009 in U.S. Federal income tax, and they will not know the final liability until they file a return later this year. So they are still doing it. The information that my good friend has is false.

Getting back to the bill and who this affects, it doesn't affect Exxon, BP, and all these giant companies. It is the small producers that will be driven out of business. Without being able to do the deduction of the expenses on manufacturing, if this bill passes, this is going to single out the oil and gas industry, the only industry that does not enjoy the same deductions. They are punitive to this industry because right now it is quite obvious they are trying to exploit the tragedy in the gulf.

It is my understanding I have a minute and a half remaining.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. INHOFE. I am timing it. It can't be expired.

The PRESIDING OFFICER. The Senator had a minute and a half when he started this segment.

Mr. INHOFE. Since my colleague has the last say, may I have 30 seconds to finish? I was going to respond to the comment about the deficit. We ought to be concerned. I am concerned about the deficit. What is interesting about this debate, I am ranked by the National Journal as the most conservative Member of the Senate. I suggest my proud liberal friend from Vermont is probably on the other end of the spectrum.

If we look at who is responsible for deficit spending, I think Members will find he would be more responsible than

I would. I thank the Senator for the additional 30 seconds.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. SANDERS. I am not a liberal but a progressive. Sometime we will talk about the difference.

Mr. President, I did not vote for the $3 trillion war in Iraq. I did not vote for the hundreds of billions of dollars in tax breaks. I did not vote for the Medicare Part D Program which drove up the deficit altogether as a matter of fact. I suspect my friend may have voted the other way on all of those issues which were not paid for.

In terms of ExxonMobil, let's be clear. I don't know what ExxonMobil told my colleague, but I ask unanimous consent to have printed in the RECORD what ExxonMobil told the Securities and Exchange Commission, the SEC. What is reported by the SEC for 2009 is they received a $156 million refund. That is the SEC.

I ask unanimous consent to have this printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

UNITED STATES SECURITIES AND EXCHANGE COMMISSION

FORM 10–K—ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—18. INCOME, SALES-BASED AND OTHER TAXES

[Millions of dollars]

	2009			2008			2007		
	U.S.	Non-U.S.	Total	U.S.	Non-U.S.	Total	U.S.	Non-U.S.	Total
Income taxes:									
Federal and non-U.S.:									
Current	$ (838)	$15,830	$14,992	$3,005	$31,377	$34,382	$4,666	$24,329	$28,955
Deferred—net	650	(665)	(15)	168	1,289	1,457	(439)	415	(24)
U.S. tax on non-U.S. operations	32	.....	32	230	.....	230	263	.....	263
Total federal and non-U.S.	(156)	15,165	15,009	3,403	32,666	36,069	4,490	24,744	29,234
State	110	.....	110	461	.....	461	630	.....	630
Total income taxes	(46)	15,165	15,119	3,864	32,666	36,530	5,120	24,744	29,864
Sales-based taxes	6,271	19,665	25,936	6,646	27,862	34,508	7,154	24,574	31,728
All other taxes and duties:									
Other taxes and duties	581	34,238	34,819	1,663	40,056	41,719	1,008	39,945	40,953
Included in production and manufacturing expenses	699	1,318	2,017	915	1,720	2,635	825	1,445	2,270
Included in SG&A expenses	197	538	735	209	660	869	215	653	868
Total other taxes and duties	1,477	36,094	37,571	2,787	42,436	45,223	2,048	42,043	44,091
Total	$7,702	$70,924	$78,626	$13,297	$102,964	$116,261	$14,322	$91,361	$105,683

All other taxes and duties include taxes reported in production and manufacturing and selling, general and administrative (SG&A) expenses. The above provisions for deferred income taxes include net credits for the effect of changes in tax laws and rates of $9 million in 2009, $300 million in 2008 and $258 million in 2007.

Mr. INHOFE. Will the Senator yield for a question?

Mr. SANDERS. Allow me to finish my remarks. This is where we are. Where we are right now is a moment at which we either go forward or not, be serious or not. We hear day after day concerns about the deficit. What we know is the oil industry, year after year, has been enormously profitable. We know in 2009 a number of oil companies, including ExxonMobil, did not pay any taxes. Let's do something about it. Let's pass this amendment.

The PRESIDING OFFICER. The time of the Senator has expired.

The Senator from Louisiana.

AMENDMENT NO. 4312

Mr. VITTER. Mr. President, I stand in strong support of my amendment No. 4312. I urge all colleagues, Democrats and Republicans, to come together to pass this commonsense amendment.

What is this amendment about? It is about something that is of great concern to me, representing the State of Louisiana. It is about the Oil Spill Liability Trust Fund. It is about the ongoing crisis in the gulf. I am afraid what it is about is an example of that now famous quote of the White House Chief of Staff, Rahm Emanuel, who, around February 2009, said: We are not going to let a good crisis go to waste. He was talking about the financial crisis. I am afraid that same attitude, that same politicization of real crises is going on with the ongoing oil disaster in the gulf.

This is a real crisis, an ongoing crisis, an ongoing disaster. The flow continues. It is so significant—even subtracting out the amount of oil BP is capturing, it is so significant that it is like a whole new major oilspill each and every day. It goes on and on and on.

What is the provision in this bill in relation to that crisis? In this bill there is a dramatic increase in the tax to fund the Oil Spill Liability Trust Fund from 8 cents per barrel to 41 cents, over a fivefold increase. If that were going into that liability trust fund, and if it were staying there for oil cleanup, we could come together and probably support that effort in a bipartisan way. But instead, what has happened?

As soon as all of that new revenue goes into the trust fund, $15 billion over 10 years, it is stolen. It is spent on unrelated spending. It isn't a true trust fund. It is spent on other government deficit spending. It is used essentially to hide deficit spending elsewhere. It is double counting, what I call Enron accounting. If a private company were doing this and putting this in their prospectus, putting this in their SEC reports, they would be prosecuted for criminal fraud.

My amendment is simple. It says two things: Anything that goes into the Oil Spill Liability Trust Fund can only be used to clean up oilspills. Pretty basic, pretty simple. Secondly, it cannot be double counted, used as an offset for other unrelated government deficit spending. That is pretty simple. I think it is a minimum requirement we should ask in the midst of this ongoing crisis in the gulf.

Again, are we going to treat that as a real crisis and address the challenge that is there or are we going to use and abuse that crisis in Washington to advance preexisting agendas such as big government spending, additional deficit, trying to mask and hide those? I suggest the only responsible thing to do is to treat the crisis for what it is, to respect the people of the gulf and to pass this Vitter amendment that says, No. 1, money into that trust fund can only be used to clean up oilspills; and, No. 2, it cannot be double counted to mask other deficit spending.

I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. PRYOR). The Senator from Minnesota.

AMENDMENT NO. 4311

Mr. FRANKEN. Mr. President, I rise to tell a very important story. Some of my colleagues have heard me talk previously about a woman named Tecora, a homeowner from south Minneapolis who is at risk of losing her home. Back in 2005, Tecora was looking for a mortgage and said she asked her bank for a conventional mortgage with fixed payments. Presented with a series of options, she unsurprisingly chose the cheapest one. Yet the simple option got her an exotic mortgage called an option ARM or an adjustable rate mortgage. Now her monthly payments have doubled over time and Tecora now owes $317,000 on a $288,000 loan.

During the housing bust and paying double what she was initially paying on her mortgage, Tecora started having trouble with her payments. Hoping to save her home, Tecora entered President Obama's HAMP program which is intended for people who want to avoid foreclosure.

One day, however, her mortgage servicer informed her that her file was closed because she ''voluntarily left the HAMP program.'' Here is the problem. She didn't. She never did. Tecora never asked that her file be closed. She never tried to leave the program. Now every

day she worries anew about losing her home simply because her servicer made a mistake. Tecora worked hard her whole life, but now she looks to the future in fear.

''I'm squeaking by,'' she told the Minneapolis Star Tribune, ''by the plaque on my teeth.''

As USA TODAY reported in March, these kinds of problems happen all too frequently. In an article entitled ''Homes Can Be Lost by Mistake When Banks Miscommunicate''—a headline that says exactly what it sounds like: homes can be lost by mistake when banks miscommunicate—the author detailed a pattern of bank errors within HAMP that have led to people losing their homes or almost losing their homes. It should not have to be this way. That is why I have offered an amendment with Senators SNOWE and MURRAY, amendment No. 4311, to create an Office of the Homeowner Advocate for people who are struggling with problems in the HAMP program.

This amendment is currently pending to the tax extenders bill. The tax extenders bill aims to help people who are suffering during this economic crisis. It includes extensions of unemployment insurance for people who have lost their job during the recession. It promotes American jobs by continuing the small business lending program which has helped create or retain over 650,000 jobs since its creation. It includes money for the national housing trust fund which will create jobs and help ensure people have affordable places to live.

Our Office of the Homeowner Advocate would continue this effort to provide a safety net to people who are struggling economically. In particular, it would help one of the groups of people who have suffered the most during the recession—homeowners. Our Office of the Homeowner Advocate is modeled after the very successful Office of the Taxpayer Advocate at the IRS. It would ensure that homeowners participating in the HAMP program know that someone is on their side, someone with the authority to actually fix the mistakes created by mortgage servicers participating in HAMP. When homeowners call this office with concerns, the office has two important powers. First, it can make sure servicers actually obey the rules of the program or suffer the consequences. Second, it ensures that the bank would not be able to sell people's homes right away, giving the homeowner advocate time to actually solve the problem. The office is temporary, lasting only as long as HAMP does. But while it lasts, it ensures that homeowners would not be losing their homes because of simple errors.

This amendment is supported by the Treasury Department. When we first filed the amendment to the Wall Street reform bill, the White House declared it one of the top 10 amendments that would improve the Wall Street reform bill. Unfortunately, the amendment didn't receive a vote. So we are bringing it to the Senate once again to ensure that homeowners in all of our States have the protections they need.

The amendment is supported by consumer groups from around the country, ranging from Americans for Financial Reform to Consumers Union, SEIU, and the National Council of La Raza. It is also supported by the superintendent of the New York State banking system, who calls it a big step forward for homeowners.

Significantly, Congress will not have to authorize any additional appropriations for this amendment. Let me say that again: Congress will not have to authorize any additional appropriations for this amendment. The office would be funded entirely by existing HAMP administrative funds. I am going to say it again. We will be helping homeowners without authorizing any new money at all—nothing, zero, zip.

I was pleased to work with Senator VITTER, who just spoke, to make this amendment even stronger by ensuring that no homeowner can game the system and still participate in HAMP, and also by increasing the transparency of the program. These two changes are incorporated in this modification to our amendment, which also incorporates some changes suggested by Senator SHELBY to ensure that the Homeowner Advocate process does not overly delay appropriate foreclosures.

I hope my colleagues see that the Homeowner Advocate is an easy way to help homeowners in all our hometowns—in Minnesota, in Arkansas, all over this country—get the protections they need to keep their homes. Let's adopt this amendment and stand up for homeowners everywhere in this country.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Montana.

AMENDMENT NO. 4312

Mr. BAUCUS. Mr. President, I wish to speak in opposition to the Vitter amendment.

The Senator from Louisiana is essentially offering an amendment which has the effect of preventing the oilspill liability tax from going into effect. This is a head-scratching amendment. Why in the world would any Senator suggest there be no increase in the oilspill liability tax?

Right now, beginning in about—let's see, what year was it?—1990, Congress, in the wake of the *Exxon Valdez* oilspill, enacted an Oil Spill Liability Trust Fund and oilspill liability tax, obviously, to pay for potential or future oilspills. The tax was set at 5 cents a barrel. In the 20 years since that time, the tax has been increased just 3 cents to 8 cents a barrel. At the same time, the price of oil has increased, since 1990, from the neighborhood of $20 a barrel to $72 a barrel today. Within the last 2 years, oil has been as high as $147 a barrel.

So with the increased evidence of the damage oilspills can create, and with the increased price of oil, we thought it was an appropriate time to raise the oilspill liability tax on oil companies to help pay for future spills. That is why we are doing this. In this bill, we propose to raise that tax to 41 cents a barrel. That is a very modest increase, where today oil in the market is roughly $72 a barrel.

You hear this argument—it is not even an argument. It is like Alice in Wonderland stuff. I do not know where this stuff comes from. It is Alice in Wonderland stuff, that somehow we should not do this because it is double counting or something like that. The money that is raised from the oilspill liability tax goes to the Oil Spill Liability Trust Find. And our Federal Government has a cash flow system of accounting, so by definition we will start to lower the budget deficit. That is not double counting. That is just the way it works.

It sounds as though the Senator from Louisiana either does not want to lower the budget deficit or he does not want to increase the tax on oil companies from 8 cents a barrel, which is so small. The fact is, what he is doing is saying this: He is saying that the Budget Office, for budget purposes, cannot count the oilspill liability tax to reduce the budget deficit. So, in effect, what he is saying is, there is no oilspill liability tax. What he is saying is the taxpayers should pay for the cleanup, not the oil companies. That is basically what he is saying. He is basically saying—by putting the kibosh on the Oil Spill Liability Trust Fund and the revenue coming from it—that he wants to protect the oil companies, protect the oil companies from any increase in the taxes from 8 cents a barrel up to 41 cents a barrel and, rather, have the taxpayers pay for the cleanup, not the oil companies that would pay the increase in the oilspill liability tax but the taxpayers.

I do not think that is what the vast majority of Americans wish to see. I think that is over the top and I, therefore, urge my colleagues to roundly defeat the amendment from the Senator from Louisiana who, in effect, does not want the oilspill liability tax increased and, in effect, is saying, taxpayers, pay for the cleanup, not the oil companies.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. VITTER. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 5 minutes 43 seconds—all on this amendment.

Mr. VITTER. Mr. President, it is a little difficult to know where to start, since my good friend and colleague has said so many things that are flat out wrong.

No. 1, my amendment does not prevent the tax increase. That is absolutely and perfectly clear. Let me say

it again. My amendment does not block and does not prevent the tax increase.

No. 2, my amendment does do two things. It says that any money in the Oil Spill Liability Trust Fund can only be used for oilspill cleanup and, secondly, that it cannot be used to offset other spending. That is exactly what is going on in this bill.

My colleague knows that the $15 billion created by this tax increase is used as an offset in this bill. It masks spending in this bill of $15 billion. If it were not for that money, the ''score'' of this bill would be $15 billion higher. It would go from $79 billion to $94 billion.

What I am saying is simple. We should not be grabbing, stealing that oilspill liability money to mask other spending, to double count it, to essentially steal it from the trust fund.

Again, my amendment does not prohibit the tax increase. By the way, if my colleague thinks the oil companies are paying that tax, not the consumer, I do not think he understands how the world works. But my amendment does not block that tax increase. It simply says money in the Oil Spill Liability Trust Fund has to be used for oilspill cleanup, and it cannot be used as an offset, cannot be double counted for other spending, as it is clearly in this bill.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. VITTER. Mr. President, if everyone else is amenable, I am prepared to yield back—if everyone else is yielding back.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I believe there is a Senator who might want to speak on this amendment. We are tracking him down right now. So I suggest we do not yield back the remainder of our time.

Mr. VITTER. Then, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. VITTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. VITTER. Mr. President, I want to ensure that the quorum call does not run down my time.

The PRESIDING OFFICER. The Senator would like the time divided evenly?

Mr. VITTER. Yes, that would be my request, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered, on this amendment.

Mr. VITTER. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. VITTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. VITTER. Mr. President, I ask unanimous consent that all time on all amendments be yielded back. I believe that is amenable to everyone.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Louisiana.

VOTE ON AMENDMENT NO. 4318

Mr. VITTER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the Sanders amendment No. 4318.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) and the Senator from South Dakota (Mr. JOHNSON) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Florida (Mr. LEMIEUX) and the Senator from Kansas (Mr. ROBERTS).

The PRESIDING OFFICER (Mrs. HAGAN). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 35, nays 61, as follows:

[Rollcall Vote No. 187 Leg.]

YEAS—35

Boxer	Harkin	Nelson (FL)
Brown (OH)	Kaufman	Reed
Burris	Klobuchar	Reid
Cantwell	Kohl	Rockefeller
Cardin	Lautenberg	Sanders
Carper	Leahy	Schumer
Casey	Levin	Shaheen
Durbin	McCaskill	Specter
Feingold	Menendez	Stabenow
Feinstein	Merkley	Whitehouse
Franken	Mikulski	Wyden
Gillibrand	Murray	

NAYS—61

Akaka	Crapo	Lugar
Alexander	DeMint	McCain
Barrasso	Dodd	McConnell
Baucus	Dorgan	Murkowski
Bayh	Ensign	Nelson (NE)
Begich	Enzi	Pryor
Bennet	Graham	Risch
Bennett	Grassley	Sessions
Bingaman	Gregg	Shelby
Bond	Hagan	Snowe
Brown (MA)	Hatch	Tester
Brownback	Hutchison	Thune
Bunning	Inhofe	Udall (CO)
Burr	Inouye	Udall (NM)
Chambliss	Isakson	Vitter
Coburn	Johanns	Voinovich
Cochran	Kerry	Warner
Collins	Kyl	Webb
Conrad	Landrieu	Wicker
Corker	Lieberman	
Cornyn	Lincoln	

NOT VOTING—4

Byrd	LeMieux
Johnson	Roberts

The PRESIDING OFFICER. On this vote, the yeas are 35, the nays are 61. Under the previous order, requiring 60 votes for the adoption of this amendment, the amendment is withdrawn.

Mr. SPECTER. Madam President, I voted for the Sanders amendment on tax incentives for oil and natural gas production to H.R. 4213, the Tax Extenders Act.

Pennsylvania is in the midst of a historic boom in natural gas production from the Marcellus Shale formation. This industry is on track to create hundreds of thousands of jobs in the Commonwealth, and billions of dollars in revenue, both of which are badly needed in my home State. But the development of one natural resource must proceed with the utmost care for two others: water and land. I know that the natural gas industry desires to maintain the tax incentives which would be removed by the Sanders amendment. President Obama has also proposed removing these tax incentives in his fiscal year 2011 budget proposal. However, I cannot support further incentives for natural gas until that industry agrees to full public disclosure of the chemical composition of its hydraulic fracturing fluids, which are used to break apart the shale deep underground and initiate the gas flow. There is placeholder language to this effect in the discussion draft of the Kerry-Lieberman American Power Act, and I hope that natural gas companies large and small will support these provisions as the bill, or another energy bill, moves forward into law. There are many issues that the natural gas industry must cooperate with the Commonwealth of Pennsylvania on, including hydraulic fracturing disclosure, wastewater recycling, responsible well development, and a severance tax. My support for incentives for natural gas will remain contingent on that industry demonstrating its commitment to developing the Marcellus Shale in a manner that all Pennsylvanians will look back on, generations from now, with pride.

Mr. GRASSLEY. Madam President, I opposed the amendment of my friend from Vermont. Although I understand his frustration and his intentions, I could not agree with the effects of the amendment. Over the years, as chairman and ranking member of the Finance Committee, I have supported policy reforms in taxation of oil and gas income. Many times, the major oil firms have registered their objections. Also, in the area of corporate taxation, I pushed hard to curtail a practice that oil firms used to erode the U.S. tax base. That practice, known as corporate inversions, was curtailed in the 2004 FSC-ETI legislation.

I re-doubled my efforts to make the reform applicable to four oil service firms but was rebuffed by the House of Representatives' leadership in the years 2004–2007.

Chairman BAUCUS and I have been careful to not impair tax incentives for independent, smaller producer oil and gas production. We have differentiated the availability of these incentives for smaller producers and made clear that major oil and gas producers did not receive many of these incentives.

The amendment of my friend from Vermont blurs that line and would adversely affect domestic production. We need to ensure an adequate supply of domestic oil and gas to keep the price at the pump down. Together with incentives for alternative fuels, line ethanol and biodiesel, and conservation, these small producer incentives with hopefully reduce our reliance on imported oil. Chairman BAUCUS joins me in this view.

For these reasons, I opposed the amendment of my friend from Vermont.

Mr. CONRAD. Madam President, section 302(a) of S. Con. Res. 13, the 2010 budget resolution, permits the chairman of the Senate Budget Committee to adjust the allocations of a committee or committees, aggregates, and other appropriate levels and limits in the resolution for legislation that invests in clean energy and preserves the environment, including legislation that encourages conservation and efficiency. This adjustment to S. Con. Res. 13 is contingent on the legislation not increasing the deficit over either the period of the total of fiscal years 2009 through 2014 or the period of the total of fiscal years 2009 through 2019.

I find that Senate amendment No. 4318, an amendment offered by Senator SANDERS to Senate amendment No. 4301, an amendment in the nature of a substitute to H.R. 4213, fulfills the conditions of the deficit-neutral reserve fund to invest in clean energy and preserve the environment. Therefore, pursuant to section 302(a), I am adjusting the aggregates in the 2010 budget resolution, as well as the allocation to the Senate Finance Committee.

I ask unanimous consent that the following revisions to S. Con. Res. 13 be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2010—S. CON. RES. 13; FURTHER REVISIONS TO THE CONFERENCE AGREEMENT PURSUANT TO SECTION 302(a) DEFICIT-NEUTRAL RESERVE FUND TO INVEST IN CLEAN ENERGY AND PRESERVE THE ENVIRONMENT

[In billions of dollars]

Section 101	
(1)(A) Federal Revenues:	
FY 2009	1,532.579
FY 2010	1,612.278
FY 2011	1,942.056
FY 2012	2,146.937
FY 2013	2,329.824
FY 2014	2,579.743
(1)(B) Change in Federal Revenues:	
FY 2009	0.008
FY 2010	−53.708
FY 2011	−146.575
FY 2012	−213.456
FY 2013	−185.513
FY 2014	−53.915
(2) New Budget Authority:	
FY 2009	3,675.736
FY 2010	2,907.837
FY 2011	2,860.866
FY 2012	2,833.668
FY 2013	2,993.128
FY 2014	3,206.977
(3) Budget Outlays:	
FY 2009	3,358.952
FY 2010	3,015.541
FY 2011	2,976.851
FY 2012	2,879.495
FY 2013	2,993.782
FY 2014	3,183.027

CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2010—S. CON. RES. 13; FURTHER REVISIONS TO THE CONFERENCE AGREEMENT PURSUANT TO SECTION 302(a) DEFICIT-NEUTRAL RESERVE FUND TO INVEST IN CLEAN ENERGY AND PRESERVE THE ENVIRONMENT

[In millions of dollars]

Current Allocation to Senate Finance Committee:	
FY 2009 Budget Authority	1,178,757
FY2009 Outlays	1,166,970
FY 2010 Budget Authority	1,247,336
FY 2010 Outlays	1,241,472
FY 2010–2014 Budget Authority	6,865,787
FY 2010–2014 Outlays	6,840,905
Adjustments:	
FY 2009 Budget Authority	0
FY 2009 Outlays	0
FY 2010 Budget Authority	0
FY 2010 Outlays	0
FY 2010–2014 Budget Authority	8,000
FY 2010–2014 Outlays	4,830
Revised Allocation to Senate Finance Committee:	
FY 2009 Budget Authority	1,178,757
FY 2009 Outlays	1,166,970
FY 2010 Budget Authority	1,247,336
FY 2010 Outlays	1,241,472
FY 2010–2014 Budget Authority	6,873,787
FY 2010–2014 Outlays	6,845,735

AMENDMENT NO. 4312

The PRESIDING OFFICER. There is 2 minutes of debate, evenly divided, prior to a vote in relation to the Vitter amendment No. 4312. Who yields time?

The Senator from Montana is recognized.

Mr. BAUCUS. Madam President, I don't see the proponent of the amendment on the Senate floor.

There he comes.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. VITTER. Madam President, I urge support for the Vitter amendment. It does two very simple things: It says any money coming into the Oil Spill Liability Trust Fund can only be used to clean up oilspills. It also says the money cannot be used as an offset for unrelated spending, as it is in this bill. It cannot be used to mask other deficit spending or as an offset for unrelated spending.

The amendment specifically does not negate or block the tax increase of funds into the Oil Spill Liability Trust Fund.

I reserve the reminder of my time.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Madam President, this amendment is sheer sophistry. The effect of his amendment will say that not oil companies but the taxpayers will pay for cleanups.

The effect of this amendment would mean no increase in oilspill liability tax from 8 cents a barrel today up to 41 cents. If there is no increase in the spill liability tax, oil companies aren't going to pay for future cleanups, the taxpayers will. He has this—I said ''sophistry.'' So it is a sophistry kind of argument. It is fog and double counting and bead counting. That is not what is going on here.

The bottom line is this amendment has the effect of taxpayers paying for the cleanup, not the oil companies. This will effectively repeal the increase up to 41 cents per barrel. I urge Senators to not support this amendment.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. VITTER. Madam President, how much time remains?

The PRESIDING OFFICER. There is 21 seconds remaining.

Mr. VITTER. My good friend and colleague's argument is not sophistry, it is just statements that are not true. This amendment does not block the tax increase, period. It does not. It simply says the money has to be used to clean up oil spills, and it cannot be used as an offset for other spending. Please support this amendment.

The PRESIDING OFFICER. The time has expired on the amendment.

Mr. VITTER. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the amendment. The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN, I announce that the Senator from West Virginia (Mr. BYRD) is necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Florida (Mr. LEMIEUX) and the Senator from Kansas (Mr. ROBERTS).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 48, nays 49, as follows:

[Rollcall Vote No. 188 Leg.]

YEAS—48

Alexander	Crapo	Lieberman
Barrasso	DeMint	Lugar
Begich	Dorgan	McCain
Bennett	Ensign	McConnell
Bond	Enzi	Merkley
Brown (MA)	Graham	Murkowski
Brownback	Grassley	Nelson (NE)
Bunning	Gregg	Nelson (FL)
Burr	Hagan	Risch
Chambliss	Hatch	Sessions
Coburn	Hutchison	Shelby
Cochran	Inhofe	Snowe
Collins	Isakson	Thune
Conrad	Johanns	Vitter
Corker	Kyl	Voinovich
Cornyn	Landrieu	Wicker

NAYS—49

Akaka	Gillibrand	Reed
Baucus	Harkin	Reid
Bayh	Inouye	Rockefeller
Bennet	Johnson	Sanders
Bingaman	Kaufman	Schumer
Boxer	Kerry	Shaheen
Brown (OH)	Klobuchar	Specter
Burris	Kohl	Stabenow
Cantwell	Lautenberg	Tester
Cardin	Leahy	Udall (CO)
Carper	Levin	Udall (NM)
Casey	Lincoln	Warner
Dodd	McCaskill	Webb
Durbin	Menendez	Whitehouse
Feingold	Mikulski	Wyden
Feinstein	Murray	
Franken	Pryor	

NOT VOTING—3

Byrd	LeMieux	Roberts

The PRESIDING OFFICER. On this vote, the yeas are 48, the nays are 49. Under the previous order requiring 60 votes for the adoption of this amendment, the amendment is withdrawn.

VOTE EXPLANATION

Mr. SPECTER. Madam President, I voted against the Vitter amendment on the Oil Spill Liability Trust Fund to H.R. 4213, the Tax Extenders Act, because no matter what the size of the trust fund, the party responsible for an oil spill must pay all costs of its cleanup, and is also responsible for economic damages caused by the spill. This amendment will not reduce in any way the available resources for combating the spill in the gulf, or any other future spill. The moneys in the Oil Spill Liability Trust Fund may be used to advance cleanup costs but that does not relieve British Petroleum as the primarily liable party for paying the full costs of the gulf spill cleanup which will reimburse the trust fund for any funds expended.

AMENDMENT NO. 4311

The PRESIDING OFFICER. There will now be 2 minutes evenly divided prior to a vote in relation to the Franken amendment No. 4311.

Who yields time?

The Senator from Minnesota.

Mr. FRANKEN. Madam President, let me tell you about this amendment. It comes from me and Senator SNOWE, and it would create the Office of the Homeowner Advocate within HAMP. It is needed because people don't really have an advocate within HAMP. They get their questions answered from servicers who often make mistakes, and people have been losing their homes simply because of mistakes.

The White House called this one of the 10 best amendments for the Wall Street reform bill. It didn't get a vote then. It costs nothing. No new money. It costs absolutely nothing. Senator VITTER weighed in and made it better by having me put in something about people who can afford their mortgage can't participate in HAMP, and it removes language that would delay foreclosures.

I urge all my colleagues to vote—that was telling me I was out of time?

The PRESIDING OFFICER. Order in the Chamber.

Mr. FRANKEN. Oh, it was order in the Chamber.

In that case, I will also say that it will make data public. Also, Senator VITTER and Senator SHELBY weighed in on this and made it better. So it is safe for Members on both sides of the aisle to vote for this.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. FRANKEN. Thank you.

The PRESIDING OFFICER. Who yields time in opposition.

Mr. SHELBY. I yield back time, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the amendment.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from California (Mrs. BOXER) and the Senator from West Virginia (Mr. BYRD) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Florida (Mr. LEMIEUX) and the Senator from Kansas (Mr. ROBERTS).

The PRESIDING OFFICER (Mr. UDALL of Colorado). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 63, nays 33, as follows:

[Rollcall Vote No. 189 Leg.]

YEAS—63

Akaka	Gillibrand	Murkowski
Baucus	Graham	Murray
Bayh	Grassley	Nelson (FL)
Begich	Hagan	Pryor
Bennet	Harkin	Reed
Bingaman	Inouye	Reid
Brown (MA)	Johnson	Rockefeller
Brown (OH)	Kaufman	Sanders
Burr	Kerry	Schumer
Burris	Klobuchar	Shaheen
Cantwell	Kohl	Snowe
Cardin	Landrieu	Specter
Carper	Lautenberg	Stabenow
Casey	Leahy	Tester
Collins	Levin	Udall (CO)
Dodd	Lieberman	Udall (NM)
Dorgan	Lincoln	Vitter
Durbin	McCaskill	Warner
Feingold	Menendez	Webb
Feinstein	Merkley	Whitehouse
Franken	Mikulski	Wyden

NAYS—33

Alexander	Cornyn	Kyl
Barrasso	Crapo	Lugar
Bennett	DeMint	McCain
Bond	Ensign	McConnell
Brownback	Enzi	Nelson (NE)
Bunning	Gregg	Risch
Chambliss	Hatch	Sessions
Coburn	Hutchison	Shelby
Cochran	Inhofe	Thune
Conrad	Isakson	Voinovich
Corker	Johanns	Wicker

NOT VOTING—4

Boxer	LeMieux
Byrd	Roberts

The PRESIDING OFFICER. On this vote, the yeas are 63, the nays are 33. Under the previous order requiring 60 votes for the adoption of this amendment, the amendment is agreed to.

The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, I ask unanimous consent to speak 9 minutes as in morning business.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

NOMINATION OF ELENA KAGAN

Mr. GRASSLEY. Mr. President, I wish to address my colleagues about the upcoming judiciary hearing and the nomination of Solicitor Kagan to the Supreme Court. I have always been of the opinion that the Senate needs to conduct a comprehensive and careful review of Supreme Court nominees. It is important that the nominee be given a fair, respectful, and also deliberative process. This is a lifetime appointment to the highest Court in the land, so it is our duty to ensure that the Supreme Court of the United States candidate understands the proper role of the Supreme Court in our system of government, and would be true to the Constitution and the laws as written. We need to be certain that the nominee will not come with an agenda to impose his or her personal political feelings and preferences on the bench.

The Senate needs enough time to adequately review the nominee's record to make these determinations. But because Solicitor Kagan does not have the usual background of being a judge on the Federal or State bench, we have no concrete examples of her judicial philosophy in action. It is critical that we understand whether she has a proper judicial philosophy because Solicitor Kagan is being considered for the Supreme Court. So it is even more important for us to look at her entire record and to give particular weight to her statements and writings as well as the positions she has taken over the years.

In order for the Senate to fulfill its constitutional responsibility of advise and consent, we must get all of her documents from the Clinton Library and have enough time to analyze them so we can determine whether she should be a Justice. I share the concerns of the Judiciary Committee ranking member, Senator SESSIONS, that Solicitor Kagan's documents will not be fully produced in time for the committee to conduct a thorough review of the nominee's record.

I hope we will receive these materials in time before the Judiciary Committee holds the Kagan hearings. From the materials and documents that we received so far, and which the committee is still reviewing, Solicitor Kagan's record clearly shows she is a political lawyer. In fact, a recent Washington Post article said her papers in the Clinton Library ''show a flair for the political,'' and that she had ''finely tuned . . . political antennae.''

Solicitor Kagan was involved in a number of hot-button issues during President Clinton's second term, including gun rights, welfare reform, partial-birth abortion, and Whitewater. The documents we received from the Clinton Library show that Ms. Kagan

promoted liberal positions and offered analyses and recommendations that often were more political than legal in nature.

Solicitor Kagan's memos from the Marshall papers also indicate a liberal and seemingly outcome-based approach to her legal analysis. So I look forward to asking Solicitor Kagan about her record and her judicial philosophy. But a judge needs to be an independent arbiter, not an advocate or a rubberstamp for a political agenda. We already know that Solicitor Kagan has held far left political views from a young age. She has been a long-time political lawyer, and she is a personal friend of the President.

As Solicitor General, she has been a prominent member of the Obama administration's team. As a nominee to the Supreme Court, Solicitor Kagan has the burden of showing that despite her record as a political lawyer, rather than as a sitting judge or practitioner, if she is confirmed she will apply the law impartially and not as a member of someone's team who is working to achieve their preferred political result.

Moreover, President Obama's standard for picking judicial nominees is one that places a premium on a judge's empathy for certain individuals or groups rather than on an even-handed reading of the law. As a Senator, President Obama lauded judicial nominees who would decide cases based on ''one's deepest values, one's core concerns, one's broader perspectives on how the world works, and the depth and breadth of one's empathy.''

As a Presidential candidate, President Obama said he would appoint judges who have empathy for certain groups. As President he said his judges would have ''a keen understanding of how the law affects the daily lives of the American people.''

The Obama ''empathy'' standard concerns me greatly because the inference is that an empathetic judge will pick winners and losers based on his or her personal preferences rather than the law blindly picking winners and losers.

When President Obama nominated Solicitor Kagan to the Supreme Court, Vice President BIDEN's chief of staff, who was involved in vetting the Supreme Court of the United States candidates, assured liberals they had nothing to worry about from her selection. In fact, he said Solicitor Kagan was ''clearly a legal progressive.'' Thus, it is safe to assume that the President was true to his promise and picked someone who embodied his empathy standard.

Because Solicitor Kagan does not have one of the best indicators of a Supreme Court nominee's judicial philosophy; that is, a judicial record on a State or Federal bench, then I believe she should be very forthcoming with the Judiciary Committee's inquiries into her judicial philosophy.

In fact, Ms. Kagan herself advocated that a nominee should respond to specific inquires into the nominee's judicial philosophy and positions on constitutional issues.

Solicitor Kagan wrote in her University of Chicago Law Review article, ''Confirmation Messes, Old and New:''

> The kind of inquiry that would contribute most to understanding and evaluating a nomination is . . . discussion first, of the nominee's broad judicial philosophy and, second, of her views on particular constitutional issues. By ''judicial philosophy'' . . . I mean such things as the judge's understanding of the role of courts in our society, of the nature of and values embodied in our Constitution, and of the proper tools and techniques of interpretation, both constitutional and statutory.

She also wrote that a nominee could comment on ''hypothetical cases'' and on general issues such as ''affirmative action or abortion,'' or ''privacy rights, free speech, race and gender discrimination, and so forth.''

Given the fact that Solicitor Kagan has been nominated to a lifetime position on the Nation's highest Court, the Senate must determine that if confirmed, she will interpret the Constitution with judicial restraint and without imposing her personal political policy preferences and biases.

The Senate must determine by examining the totality of her record that if confirmed, she would not be a rubberstamp for the President's political agenda. We will have to see whether Ms. Kagan will live up to her own standard for Supreme Court nominees and whether she will be as forthcoming as she argued Supreme Court of the United States nominees should be in the Senate confirmation process.

So I am going to be pursuing this for my people of Iowa because they are very concerned. I am getting a lot of phone calls both for and against her that have to be taken into consideration.

I yield the floor.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant editor of the Daily Digest proceeded to call the roll.

Mr. DURBIN. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. Mr. President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTERCHANGE FEES

Mr. DURBIN. Mr. President, a few weeks ago we considered a Wall Street reform bill which tried to address some of the underlying problems in our economy which led to the recession. It was an ambitious undertaking. The Senate Banking Committee, under Chairman DODD, led us through a very difficult and lengthy debate over the bill.

Part of the debate included an amendment which I offered relative to what is known as an interchange fee. An interchange fee is the amount of money charged to a business when a customer presents a credit card. So if I go to a restaurant in Chicago and pay for the bill with a credit card, the restaurant is going to have to pay a percentage of my bill to the credit card company or at least to the issuing bank of the credit card. And then I, of course, have to pay the bill when it comes in the mail.

This so-called interchange fee—the charge by the credit card company to the business I am patronizing—is a fee that turns out to be very large and expensive. Nearly $50 billion in credit and debit card interchange fees is collected each year, primarily by the largest credit card companies and by the largest banks that issue those credit cards. This is virtually unregulated. There is no regulation as to the amount charged or collected from these businesses. Visa and MasterCard, which dominate the credit and debit card industries, establish the interchange rates that all merchants and, by extension, their customers pay to banks whenever a card is swiped. So if the restaurant I went to is charged 1 percent, 2 percent, or 3 percent because I presented a Visa card or a MasterCard, that is going to be reflected in the bill I pay. It certainly is going to come off of any profit margin the restaurant might realize as a result of my patronizing it.

Already more than half of the retail transactions in America are conducted by debit and credit cards. Every time someone uses a credit or debit card to make a donation to a charity, Visa and MasterCard require an interchange fee to be paid. There have been exceptions where they have said they will suspend the fees, but by and large, if one makes a donation to the charity of their choice using their credit or debit card, part of the money they think they donated is going to end up in the hands of these credit card companies.

According to a January 14 analysis by the Huffington Post, banks and card companies make an estimated $250 million a year from their interchange or swipe fees on charitable donations. In other words, it turns out that Visa and MasterCard are declaring themselves part of this charitable contribution and taking millions of dollars out of it. I would like to see more of that money go to the charitable purposes for which people donate their money.

The Huffington Post noted that charities such as Habitat for Humanity pay about 2.15 percent of their donation in card fees. St. Jude's Children's Research Hospital, well known and well respected, pays about 2.5 percent in card fees. Is it really necessary for Visa and MasterCard and the big banks to take a cut out of every charitable donation? We are not talking about the cost of the transaction. I will concede the fact that the regular proportional cost of a transaction of using the card is certainly fair for Visa and MasterCard to charge, but they raise that dramatically. There is no way that Visa and MasterCard could justify

2.5 percent if I use my debit card to try to make a donation to St. Jude's Children's Research Hospital. They are literally gaming the system and profit-taking from charities.

In the wake of the devastating earthquake in Haiti in January, Visa, MasterCard, and their member banks voluntarily suspended the collection of interchange fees for some charitable donations for earthquake relief. It seems these companies can survive without charging these fees for charitable donations. They have done it. One bank, Capital One, has decided not to collect interchange on donations made to charity by their cards. I salute them. It is the right thing to do. Why aren't they all taking this position? Why don't they exempt charitable institutions from these issuing bank and credit card fees? I wish other banks were as reasonable when it came to interchange fees and charitable causes as Capital One.

There is another group—universities. They pay a heavy cost in interchange fees. They lose a fortune in interchange when people use cards to pay for things such as tuition and housing.

After my amendment passed the Senate, I received a letter from the American Council on Education and eight other major university associations thanking me. The letter said:

> As a result of your amendment, we believe that colleges and universities will see reduced debit card costs which they will be able to pass on to students and their families through lower costs as well as increased resources for institutional grant aid and student services.

The reach of credit cards is unlimited in our economy. So are the greedy hands of the credit card companies and their issuing banks when it comes to these interchange fees. When I said in this amendment that we really want those fees to reflect the reasonable and proportional cost of processing the transaction, they screamed bloody murder because there is a lot of money being made—some $50 billion across the economy from these fees. Wouldn't it be great if we could enable colleges and universities to lower the cost students have to pay and put more resources into financial aid?

The letter also said that under my amendment, ''colleges and universities will be able to offer discounts to students and their families for payments made with checks and debit cards.'' That is another thing they don't like to talk about. These two major credit card giants, Visa and MasterCard, really have a sweet deal. They basically coordinate their policies. It is as if Coke and Pepsi reached an agreement and said to your local store: Don't you dare offer that other product at a discount. That is virtually what has happened with Visa and MasterCard. They tell the stores: You can't give any better treatment; you can't say this is a Visa store or a MasterCard store. No way. You have to say we accept all credit cards from these issuing agencies. And basically, you can't limit it to debit cards, limit it to check cards, give a discount, limit the amount in terms of the dollar amount you can charge on these cards.

I also want to say that governments are paying these credit card companies a lot as well. Think of all the ways in which people conduct transactions with Federal, State, and local governments. Every time somebody uses a card to pay for a driver's license or a parking sticker or a ride on public transit or to pay a ticket or to obtain a permit, there is an interchange fee. The city of Chicago paid $7.5 million in interchange fees last year. The Chicago Transit Authority paid $1.8 million per year in interchange fees. The Illinois Tollway paid $11.6 million in interchange fees last year. In most cases, the government agencies have no bargaining power when it comes to the amount of the interchange fee. Every dollar spent on these fees is a dollar that could have been spent on jobs and services and a dollar that could have been spared from the taxpayer.

The American Association of Motor Vehicle Administrators represents DMVs across the country. They accept cards for payment of things such as driver's licenses, car registrations, and license plates. They wrote a letter. They said:

> State motor vehicle agencies and other state agencies are experiencing unprecedented financial strain today, as we seek to control costs where possible. . . .While our customers certainly appreciate the convenience of electronic transactions, few understand that the costs of accepting credit and debit card payments for motor vehicle agencies are higher today than ever before, and that these fees compound the current budget crisis that many states face.

The cost of interchange fees affects every local government, every State, every Indian tribe, and even the Federal Government. Right now, even the Federal Government is as helpless as any small business when it comes to trying to reduce their interchange costs.

The amendment which I offered, which was adopted on the floor of the Senate by a vote of 64 to 33, requires debit interchange fees to be kept at a reasonable level, and it allows sellers to offer discounts to consumers without threat of punishment from Visa and MasterCard. The amendment was adopted in a broadly bipartisan vote, as 17 of my Republican colleagues joined me in passing it. The amendment is going to help American families, each of whom pays an estimated $427 a year to subsidize the credit card companies and the banks issuing these cards.

Lobbyists for the financial industry have thrown the kitchen sink at my amendment in an effort to keep the $50 billion interchange fee system completely unregulated. Imagine, here is DURBIN's amendment getting into $50 billion worth of profit-taking these credit card companies and their banks, the biggest banks, are engaged in.

Incredibly, the card companies and banks have even argued that they need to preserve the $50 billion interchange system in order to protect consumers. Give me a break. On the issue of consumers, they have no shame. Do my colleagues recall that we passed a credit card reform bill and the credit card companies said: We will need 6 months to really get all this stuff together, all these changes. Give us a little time.

Remember what happened in that 6-month period? Every time you would go to pick up the mail and there was something from the credit card company, you would open it and they would announce they were raising interest rates. So they ran the rates up as high as they could before the Credit Card Reform Act went into effect.

When have Visa and MasterCard and the big banks ever stood up for consumers? Didn't we just see them fall all over themselves to gouge cardholders before this last credit card act went into effect? Where do the banks and card companies think their $50 billion in interchange fees comes from? It comes from consumers who subsidize the interchange system by paying higher retail prices. It is a massive hidden transfer of wealth from consumers to big banks.

The amendment represents one of the big wins for small businesses and consumers in years. It will help small businesses grow and create jobs.

Don't let the Wall Street lobbyists fool you. They will say anything to protect their big bank profits.

I have received some letters from Illinois small businesses supporting my interchange reform. From James Phillip, Jr., owner of Phillip's Flower Shops in Westmont, IL:

> As an 87-year old family business, over one-third of our customer purchases are paid by credit and debit cards; yet we found that over the years our cost of clearing credit cards and complying with their rules has increased faster than the total amount cleared—to the point that it is now extremely burdensome on the independent retailer. . . .I am writing to voice my support for legislation that would make credit card fees and rules for merchants more reasonable and competitive.

Mr. President, whether it is Colorado or Illinois, if we are coming out of this recession, it will be because small businesses are on the move, expanding their employment, expanding their efforts, expanding their businesses. This is a drag on small business.

From Robert Jones, president of the American Sale patio store in Tinley Park, IL:

> I am a small businessman in Illinois. I want to thank and encourage you to push for credit card and debit card interchange reform. Being a small business we have absolutely no choice and no power to negotiate with the big credit card companies over their fees. They basically tell us ''take it or leave it.'' Since the vast majority of our customers now pay with credit cards due to all the points and perks they are getting for doing so, we have no alternative. They essentially have a monopoly on taking payments from our customers. I applaud your amendment to level this playing field.

From George LeDonne, owner of LeDonne Hardware in Berkeley, IL:

As the owner of a hardware store in Berkeley, IL, I am directly affected by these fees. Small businesses are closing every day as it becomes more of a struggle to stay profitable. Your help in recognizing and acting on this is appreciated.

Russ Peters, owner of Mobile Print, Inc., a printing company in Mount Prospect, IL:

I wish you to know I definitely support this reform. Credit cards are ubiquitous in today's marketplace and these common sense reforms will benefit a small business like mine.

Jim Dames, he owns the Snackers Cafe in Western Springs:

Please help small businesses, I can't fight the credit card companies alone.

And here is an old friend of mine, George Preckwinkle, president of Bishop Hardware and Supply. He has 10 locations in central Illinois. I have known George for 40 years. He wrote me a letter. And George is not of the same political faith that I am, so I accept this as being a genuine statement, not partial in any way. George writes:

It is very important to business, especially smaller business, to solve the problems retailers are having with exorbitant fees and contractual restrictions imposed by Visa and MasterCard. Senator DURBIN's amendment would be a huge help.

I cannot tell you how great it is to hear from my friend George, who probably has never voted for me but just sent me the nicest note about this effort.

I could go on with a long list, but I will not. But I will just tell you this: The information we are receiving is very clear. Whether the business is small or large, whether it is a private entity or a public entity, such as the city of Chicago, the city of Springfield, IL, whether we are talking about universities that are trying to keep their costs down for students, whether we are talking about charities that literally are trying to raise enough money to do the good things that need to be done in our country and in our world, the credit card companies are always there with their hand out and their demands for these fees. For years, there has been virtually no competition. These small businesses do not have a fighting chance against these credit card companies.

Well, I can tell you, I have roused a sleeping giant, if it was ever asleep, in the giant credit card companies in what they are trying to do on Capitol Hill. They are smothering this place with lobbyists who are calling, and they realize they have almost no credibility whatsoever, so they are finding surrogates.

The latest group, which really saddens me, is the credit unions. Historically, I have always voted with the credit unions. I have thought they virtually represent the right way to loan money, and they get special treatment because of that approach. Their idea, of course, is they collect the money from their members in their savings, and they loan it out so that their members can buy cars and other things that are necessary. They keep their costs low because they are nonprofit. We do not tax them, so we give them special treatment. But they also issue credit cards, so we exempted them from my amendment. Virtually every credit union in America, but for three, is exempt. We put a $10 billion threshold for any financial institution that would be affected by it. That eliminates almost 8,000 credit unions. Only three would be covered. They are huge. Yet the credit unions are roaming all over Capitol Hill saying the Durbin amendment is the end of the world.

Here is their logic: If we end up reducing the interchange fee on debit cards in the biggest banks, then Visa and MasterCard have said to the smaller banks and credit unions: We are going to reduce your interchange fee too. And they say they have to do that because they just cannot separate all these different banks and credit cards. Well, that is just a bunch of baloney, if I can say that on the floor of the Senate—and I just did—because Visa has 122 different categories of interchange fees today; MasterCard, over 100. So the argument that they cannot separate the little banks from the big banks—get out of here.

Secondly, they have the power today to lower interchange fees unilaterally. They can just call and say to these credit unions and community banks: We are going to lower the interchange fee that is being paid to you. They can do it, and these banks have no recourse whatsoever. If the banks and credit unions think that is an unfair proposition, then they are standing in the shoes of small business—in exactly the same position.

These Visa and MasterCard credit card companies have reached the point where they have so much power and virtually no competition, that it was confirmed last week in a hearing of the Senate Judiciary Committee that they are currently being investigated by the Antitrust Division at the U.S. Department of Justice. No details were provided in terms of this investigation, but the person who spoke for the Department of Justice confirmed that fact. They have reached the point where they virtually have no competition. They can impose whatever they want.

Let me make one last point about that. If Visa and MasterCard make their money because more people own credit cards and more banks issue credit cards, does it make sense that they would create an environment where credit unions and smaller banks would not want to issue credit cards? Of course not. The profitability of Visa and MasterCard is when more people are using credit cards, more banks are issuing credit cards. So if they are going to make it more difficult for banks and credit unions to issue credit cards, they are really cutting off their nose to spite their face, and I think that is pretty obvious.

But it is interesting to me how fearful credit unions are of Visa and MasterCard. They are literally shivering in their boots. They do not understand that they are the victims as much as the small businesses are of these powerful credit card companies. I wish for once they would step back and take a look and not just automatically sign up whenever the largest banks in America say jump. It just should not be that the commercial banks, the community banks, the credit unions are doing this, and it really is a vast departure from where they have been historically.

So at this point, the bill is now in conference committee, and I know Senator DODD and Chairman BARNEY FRANK of the House Banking Committee are working hard to try to enact this bill. I know the strong bipartisan vote in the Senate is an indication of how we feel about it. I hope our friends in the House, though they do not have that provision in their bill, will consider making this part of the conference committee report.

It will be a positive day for us in America when the message is finally delivered to the credit card companies that they can no longer have this dictatorial grip over small businesses and the issuing banks they have today.

I hope we can see, in the next 2 weeks, a bill coming forward on Wall Street reform with many important provisions. This is one that is certainly important to me personally and I think will be a way for us to help small businesses increase jobs and help this economy come out of this recession. I hope we can do that soon.

Mr. President, I see another colleague on the floor, and I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. WHITEHOUSE. First of all, Mr. President, let me thank the distinguished assistant majority leader for his continuing work on this issue. It protects small businesses and consumers from gouging by the credit card companies and the monolithic monopoly power they bring to bear. I was pleased to vote for and support this amendment on the floor, and I wish the assistant majority leader much success in the conference committee to get that in the final bill.

Mr. DURBIN. I thank the Senator.

Mr. WHITEHOUSE. Mr. President, I rise today to speak about the Foreign Manufacturers Legal Accountability Act, which I have filed as amendment No. 4324 to the package currently under consideration by the Senate. This amendment would close a loophole in Federal law that allows foreign manufacturers to evade accountability when their products injure Americans here at home. It would do so by requiring foreign manufacturers to meet the same standards as domestic manufacturers. It is a simple reform. It is much needed. It will protect American industry against unfair competition or having to, in effect, subsidize dangerous foreign products. It will foster American jobs for that reason. It will keep

American consumers safe, and it will help Americans who are injured make sure they get an adequate recovery for their injuries from the foreign manufacturer who caused them the harm.

What happens here in America when a foreign manufacturer is able to avoid responsibility for a defective product that causes an injury to an American? When they are able to avoid responsibility, one of two bad things happen. One or the other has to be. One is that the injured American gets no recovery. Their injury goes unredressed. They cannot find the accountable company, and they just have to suffer without compensation. The second alternative is that an American company, under the theory of joint and several liability, has to make good for the harm caused by the foreign company. It becomes a cost to the American company.

This actually came up in the hearing on the bill when an Alabama contractor explained how he had to make good on the claims of homeowners whose homes he built when, without knowing it, he had used defective Chinese wallboard in the homes and they emitted sulfur that was bad for the health of the home occupants, that corroded piping, and that caused an immense amount of work that had to be redone to have his customers be satisfied customers. It became his problem when the Chinese wallboard company was nowhere to be found when their defective product caused all this harm down in Alabama. These are things that should not happen, and they are bipartisan concerns.

I want to say I am proud and grateful to have had the opportunity to work with Senator SESSIONS and Senator DURBIN to achieve these goals. Both Senator SESSIONS and Senator DURBIN were original cosponsors when I first introduced this bill on a stand-alone basis. Thirteen other bipartisan cosponsors have since signed on to that bill, and I am very grateful for all their support.

Let me describe for a few minutes the specifics of this particular amendment.

There are two legal hurdles that currently face an American harmed by one of these foreign manufacturers. As my lawyer colleagues know, someone who gets injured and brings a lawsuit must bring the responsible party into the proper court. This requires the injured party, one, to serve process on the defendant, to file the papers in the lawsuit with the defendant, and two, to establish personal jurisdiction over the defendant, consistent with the due process clause of the Constitution. No service of process, no jurisdiction, no lawsuit, no recovery, no assistance for the injured American.

The problem is that service of process on a foreign manufacturer is often extremely costly and extremely slow because it often must be done abroad rather than here in the United States. For instance, when an American seeks to serve a defendant in a country that is a signatory to what is called the Hague Convention on the Service Abroad of Judicial and Extra Judicial Documents in Civil and Commercial Matters, the complaint must be translated into the foreign language, transmitted to the central authority in the foreign country, and then delivered according to the rules of service in the home country of the defendant, which may not be hospitable to foreign litigants. Even more complex procedural hurdles face an American seeking to serve a defendant in a country that has not signed the Hague Convention.

But let's say you get through all that expense and all that hassle and all that delay. Even when an American does serve process successfully on a foreign manufacturer, personal jurisdiction then can prove an insurmountable hurdle. This is because Supreme Court decisions interpreting the due process clause make it hard to exercise jurisdiction over foreign companies, even those whose products have injured Americans.

So something clearly needs to be done to bring the way we treat foreign manufacturers into line with the liability and responsibility of domestic manufacturers. They should not have this advantage over our domestic industry.

This amendment provides a simple solution to both of these problems. It requires a foreign manufacturer that wants to import products into the United States for our consumers to use to register an agent in the United States who will accept service of process for cases in the United States. By designating such an agent, the manufacturer would consent to the personal jurisdiction of the courts in the State where the agent is located, and no further complicated service of process would be required. This is not dissimilar, for example, to the way a corporation from outside my home State of Rhode Island must register to transact business in our State—a requirement that exists in many States around the country. I suspect it exists in the distinguished Presiding Officer's home State of Colorado.

Finally, let me make clear to whom this applies and how. The big foreign manufacturers that ship billions of dollars of products into the United States and whose names we would all instantly recognize already can be held accountable somewhere in the United States by virtue of their having American operations or by virtue of the size of their imports. They can usually be found. And for companies such as that, complying with the new law will be as simple as designating someone in their U.S. headquarters to be that agent for service process. It will be a 5-minute task to comply with this law.

For foreign companies that have set up manufacturing operations somewhere in the United States, they will get the same treatment as domestic companies under this bill. Their domestic operation will be a location where they can be served. It is the foreign manufacturers that take advantage of our marketplace, but when their defective product injures someone and can't be found, that are the real targets of this amendment, they don't want to be held responsible anywhere.

Who are they? Well, to give a few examples, they are the ones who make the drywall I talked about, full of sulfur, that corrodes wiring and makes the residents sick. They are the companies that make cheap toys with lead paint on them that is poisonous to children or metal plumbing fittings that rupture under routine use because they are so shoddy or those that contaminate medical supplies that are sold into the United States with unthinkable chemicals. These companies may look perfectly legitimate when they sell their products, but when you try to find them once you have been injured by them, it is like grasping smoke. They disappear, and they avoid all accountability when their products hurt our fellow Americans.

It is these companies that this amendment will fully bring within the scope of the American legal system. It is important that we do this, because they should play by the same rules our American companies do with respect to service of process and availability for redress.

The Foreign Manufacturers Legal Accountability Act applies to major product categories including consumer goods, drugs, cosmetics, and chemicals through the Federal agencies that already regulate those product categories and through the components of the Department of Homeland Security that oversee our Nation's imports. The amendment empowers those agencies to use their expertise in these fields to set appropriate thresholds; for instance, to exempt small foreign manufacturers from having to register an agent, and allows a working period to ensure that no disruptions in imports occur during the implementation period of this amendment.

I urge my colleagues to support this amendment. I think it is important. By leveling the economic playing field, it will allow American manufacturers to compete fairly with foreign manufacturers, thereby protecting American jobs. By holding foreign manufacturers to the same standards as American manufacturers, it will protect our consumers and American businesses without raising any trade issues. It will eliminate this terrible situation of a foreign product causing an injury to an American for which that American can get no relief or a foreign company causing an injury to an American but because they can't be found, having an American company that worked on the installation of the product, that sold the product, that is for some reason jointly and severally liable for that injury having to carry the cost that belongs on the foreign manufacturer and would be their cost if only they could be found and served and brought to account in an American court. Both of

those things are rankly unfair, and this is the best solution to put an end to those two injustices.

I think it is an important and a much needed fix to a quirk in our laws. We should pass it as soon as possible. I hope very much it can become a part of the legislation to which it is now a pending amendment.

I thank you very much.

I yield the floor, and I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I ask unanimous consent that on Wednesday, June 16, following morning business, the Senate resume consideration of the House message with respect to H.R. 4213; that there then be 5 minutes of debate equally divided and controlled between Senators BAUCUS and GRASSLEY or their designees; that upon the use or yielding back of that time, Senator MCCONNELL or his designee be recognized to make a Budget Act point of order against the Baucus motion; that once the point of order is raised, Senator BAUCUS then be recognized to waive the applicable budget point of order; that if the waiver fails, then the Baucus motion to concur with an amendment be withdrawn, and Senator BAUCUS then be recognized to move to concur in the House amendment to the Senate amendment to the bill with an amendment; provided notwithstanding the withdrawal of the previous motion, the previously agreed-upon amendments Nos. 4302, as modified, 4326, and 4311, as modified, be incorporated into the new Baucus motion to concur; that the Reid amendment No. 4344 be reoffered with the same text; that on Thursday, June 17, beginning at 10 a.m., the Senate debate the Thune substitute amendment No. 4333, to be reoffered with the same text; that the amendment be debated for 2 hours, with the time equally divided and controlled between Senators BAUCUS and THUNE or their designees; that upon the use or yielding back of time, Senator BAUCUS be recognized to raise a budget point of order against the Thune amendment; that Senator THUNE, or his designee, then be recognized to move the applicable budget point of order; that if the waiver fails, then the Thune substitute amendment be withdrawn; further, that if the waivers for either Baucus our Thune amendments succeed, the amendments remain pending; finally, that the cloture motion be withdrawn.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. CONRAD. Mr. President, pursuant to section 302(a) of S. Con. Res. 13, the 2010 budget resolution, I made adjustments to the 2010 budget resolution earlier today for Senate amendment No. 4318, an amendment offered by Senator SANDERS to S.A. 4301, an amendment in the nature of a substitute to H.R. 4213.

The Senate did not adopt Senate amendment No. 4318. Consequently, I am further revising the 2010 budget resolution to reverse the adjustments previously made pursuant to section 302(a) to the aggregates and to the allocation provided to the Senate Finance Committee.

I ask unanimous consent that the following revisions to S. Con. Res. 13 be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2010—S. CON. RES. 13; FURTHER REVISIONS TO THE CONFERENCE AGREEMENT PURSUANT TO SECTION 302(a) DEFICIT-NEUTRAL RESERVE FUND TO INVEST IN CLEAN ENERGY AND PRESERVE THE ENVIRONMENT

[In billions of dollars]

Section 101	
(1)(A) Federal Revenues:	
FY 2009	1,532.579
FY 2010	1,612.278
FY 2011	1,939.131
FY 2012	2,142.415
FY 2013	2,325.527
FY 2014	2,575.718
(1)(B) Change in Federal Revenues:	
FY 2009	0.008
FY 2010	−53.708
FY 2011	−149.500
FY 2012	−217.978
FY 2013	−189.810
FY 2014	−57.940
(2) New Budget Authority:	
FY 2009	3,675.736
FY 2010	2,907.837
FY 2011	2,858.866
FY 2012	2,831.668
FY 2013	2,991.128
FY 2014	3,204.977
(3) Budget Outlays:	
FY 2009	3,358.952
FY 2010	3,015.541
FY 2011	2,976.251
FY 2012	2,878.305
FY 2013	2,992.352
FY 2014	3,181.417

CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2010—S. CON. RES. 13; FURTHER REVISIONS TO THE CONFERENCE AGREEMENT PURSUANT TO SECTION 302(a) DEFICIT-NEUTRAL RESERVE FUND TO INVEST IN CLEAN ENERGY AND PRESERVE THE ENVIRONMENT

[In millions of dollars]

Current Allocation to Senate Finance Committee:	
FY 2009 Budget Authority	1,178,757
FY 2009 Outlays	1,166,970
FY 2010 Budget Authority	1,247,336
FY 2010 Outlays	1,241,472
FY 2010–2014 Budget Authority	6,873,787
FY 2010–2014 Outlays	6,845,735
Adjustments:	
FY 2009 Budget Authority	0

CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2010—S. CON. RES. 13; FURTHER REVISIONS TO THE CONFERENCE AGREEMENT PURSUANT TO SECTION 302(a) DEFICIT-NEUTRAL RESERVE FUND TO INVEST IN CLEAN ENERGY AND PRESERVE THE ENVIRONMENT—Continued

FY 2009 Outlays	0
FY 2010 Budget Authority	0
FY 2010 Outlays	0
FY 2010–2014 Budget Authority	−8,000
FY 2010–2014 Outlays	−4,830
Revised Allocation to Senate Finance Committee:	
FY 2009 Budget Authority	1,178,757
FY 2009 Outlays	1,166,970
FY 2010 Budget Authority	1,247,336
FY 2010 Outlays	1,241,472
FY 2010–2014 Budget Authority	6,865,787
FY 2010–2014 Outlays	6,840,905

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNIZING HELP OF SOUTHERN NEVADA

Mr. REID. Mr. President, I rise today to celebrate the 40 year anniversary of HELP of Southern Nevada, a nonprofit organization providing Nevadans with housing, emergency services, life skills and prevention—the four cornerstones for which its name is an acronym. HELP has served as a vital resource to hundreds of thousands of Nevadans, and continues to provide unwavering support to our communities.

HELP was first created out of the Junior League of Las Vegas in 1969, and called the Voluntary Action Center. They incorporated a year later, in 1970, and became one of Nevada's premier resource centers for the disadvantaged. In that year, HELP provided its services to 300 people in southern Nevada. Today, they serve 55,000 distinct clients every year.

The services HELP offers range from financial assistance with rent and transportation costs, to providing meals to families during the holidays. A focus on providing practical assistance in gaining self-sufficiency makes HELP one of southern Nevada's greatest social service providers. Its services include seven different areas of support: Community Alternative Sentencing, Holiday Programs, Nevada 2–1-1, Social Services, Weatherization, Work Opportunities Readiness Center—W.O.R.C., and the Youth Center.

To highlight a few of the great contributions of HELP of Southern Nevada, let me tell you about the Community Alternative Sentencing programs and the Youth Center. The Community Alternative Sentencing Program offers hope to individuals facing incarceration and other sanctions. In lieu of these penalties, individuals give their times and services to aiding nonprofits in community service. In addition to the productive and illuminating experience this program offers its participants, it saves taxpayers the cost of incarceration, and directly increases the capacity of nonprofits to help in the community. The HELP of southern Nevada Youth Center provides training and assistance to Southern Nevada's youth to prevent homelessness and equip young people for success. Many are matched with volunteer mentors from the community, who work help them get the most out of classes they take at the center which help them develop work and personal skills. These programs only scratch the surface of HELP's vast offerings.

It brings me great joy to see Nevadans working so hard to make meaningful and lasting influences in our community. Over the course of four decades HELP and its devoted staff and volunteers have exemplified the ideals of selflessness and public service. I know that the hundreds of thousands of individuals whose lives have been touched by the work of HELP would share in my desire to express our gratitude. Furthermore, I would like to congratulate HELP. The positive changes they have made amongst the lives of individuals and within the community are truly remarkable achievements. I am grateful and honored to recognize the 40th anniversary of HELP of Southern Nevada today.

BIG OIL

Mr. FEINGOLD. Mr. President, the explosion on the Deepwater Horizon oil rig in the Gulf of Mexico was a tragedy for the workers killed and their families. It has also become an economic disaster for the people of the gulf coast and an unparalleled environmental disaster for our Nation. As we work to stop and clean up the spill, we also need to end the coziness between big oil and the Federal agencies that regulate the industry. That chummy relationship has shielded big oil from being held accountable for years, and it is high time we make sure that government is cracking down on, not cozying up to, the oil companies.

As I discussed a few days ago at a Judiciary Committee hearing examining liability issues related to the BP oilspill, Congress should take action right away to deter wrongdoing and encourage the kind of responsible, careful drilling we need. One way to do that is to eliminate big oil's liability cap for natural resources and economic damage caused by oilspills, such as the loss of travel and tourism revenue that businesses across the gulf are experiencing. I am a cosponsor of Senator MENENDEZ's legislation to do just that. The oilspill in the gulf has made it painfully clear that this liability cap is far too low. The existing $75 million liability cap is less than 1 day's worth of profits for BP, which earned almost $6 billion in profits in the first quarter of this year.

But that must be just the beginning of a comprehensive effort to change the way government approaches big oil. For far too long, the oil industry has gotten special treatment, in large part because it is one of the wealthiest, most powerful special interests in Washington. The oil and gas industry gave $35 million in political donations in the last Presidential election cycle, and $¼ billion in donations over the last 20 years. One of the reasons I have worked to curb the influence of money in politics for so many years is because of the undue influence of big oil.

Those donations have contributed to the oil industry's access to Congress and to the agencies that are supposed to regulate oil exploration and production. It is no coincidence that the oil industry has received unjustified tax breaks and other favorable treatment for years. That has to change, and we can start by getting rid of taxpayer-funded giveaways for the oil and gas industry, as I have proposed in my Control Spending Now Act, legislation to cut the deficit by about $½ trillion over 10 years. Part of that bill would end a taxpayer subsidy for the processing of oil company permits. I also support efforts to repeal over $35 billion in oil and gas tax breaks targeted by President Obama for elimination. As we seek to rein in record deficits, it is time to end these unjustified giveaways to an industry that doesn't need taxpayer support.

Congress must also make sure that regulators aren't simply acting as rubberstamps for whatever the oil industry wants. Unfortunately, too often the Federal Government ends up listening more to the powerful industries it is supposed to be regulating than to the consumers it is supposed to be protecting. Whether it is Wall Street or big oil that is calling the shots, the result is rarely good for my constituents in Wisconsin.

Another critical way to hold big oil accountable is to pass my ''Use It or Lose It'' legislation to ensure oil companies are diligently exploring the Federal leases they currently have, and not sitting on those leases in an effort to drive up gas prices. We should also restore the Clean Water Act, CWA, to its full strength. The CWA is the main statute used to prosecute polluters who dump oil into waters of the United States, and it is never been more important to ensure that polluters are held accountable for the damage they do to our economy and our environment.

Congress has the responsibility to look ahead and do what it takes to prevent a disaster like the one in the gulf from happening again. We have to come at this issue from all sides to make sure that BP is held accountable for the current spill, that we work to prevent future spills with proper regulations, and that we upend the culture that provides tax breaks and special treatment for big oil in the first place. Working to stop and clean up the spill in the gulf is not enough. Congress has to clean up the cozy Washington culture that favors big corporations over the needs of American people, and over the protection of our economy and our air and water.

GUINEA

Mr. FEINGOLD. Mr. President, Guinea is a fragile, resource-rich state in West Africa that has been plagued by political uncertainty since the death of its longtime President, Lansana Conté, in December 2008. Much of this upheaval can be attributed to the fact that the President, in his 25 long years of rule, left little room for governance reform. His autocratic legacy included abusive security forces, a collapsed economy, a divided civil society, and a squabbling opposition. As a result, there was no clear successor and no viable path forward. President Conté's commitment to democracy was cosmetic, at best, and easily trumped by his dictatorial tendencies and unwillingness to relinquish power.

As many Guinea watchers expected, the day after President Conté, died, a military junta calling itself the National Council for Democracy and Development, CNDD, seized power and dissolved the constitution and legislature. Given the deteriorated state of governance and widespread impunity, the junta was initially hailed by many as a safeguard against the endemic problems of corruption, insecurity, and rampant drug trafficking—all of which contribute to the lack of legitimate governance. Furthermore, the fact that the CNDD appointed a civilian prime minister and promised to hold Presidential and legislative elections gave many Guineans hope that the country was on the verge of a legitimate political transition.

But those elections were repeatedly postponed, despite repeated claims by the junta that a transition to civilian rule would occur. As the months passed, a number of signs, including the appointment of military officers to key government posts, indicated that CNDD was in fact not planning to relinquish power and was certainly not ready—or willing—to oversee an election process.

In fact, over the next few months the CNDD sought to tighten its hold on power severely, including an attempt in September 2009 by security forces to brutally crush a peaceful, prodemocracy rally. I joined many in the international community at that time in condemning such blatant and violent repression. A U.N. Commission was

sent to investigate the atrocities while the CNDD crackdown cast a dark shadow on Guinea's prospects for peace and stability.

During this period, I was pleased to see the Obama administration engage proactively to help reverse Guinea's political crisis—particularly in the aftermath of the shooting of CNDD leader Captain Dadis Camara. In those fragile moments of uncertainty, the consistent diplomacy undertaken by our senior officials played an important role. Working with key regional actors and organizations, the State Department helped to broker an important political agreement, known as the Ouagadougou Declaration, which was widely welcomed as an end to the protracted political vacuum that had existed. The signing of this agreement ushered in a transitional united government that, while imperfect, has been actively supported by the Obama administration.

Unquestionably Guinea remains on delicate ground but the upcoming Presidential elections scheduled for June 27 create an opportunity for Guinea—and our bilateral relationship—to progress forward. Undoubtedly the process will be chaotic and messy, but there is a good chance we could see this beleaguered country bounce back from decades of mismanagement. Of course, in order for Guinea to truly progress, these elections must be the beginning of serious and sustained reform—a process which must also include accountability for the abuses committed in September 2009. Elections are only one component of the democratic process, but still they are a significant one and may give the people of Guinea their long deserved chance to finally turn the page on their troubled political history.

While there are plenty of factors that could lead to another election postponement including the will of the transitional government and the capacity and efficiency of the election commission, I remain optimistic that this will not occur. Certainly there are real challenges to fostering democracy given Guinea's history, but the recent commitment from the Acting President and Chief of the Army to remain neutral and ensure the elections are free, credible, and transparent should not go without notice. I have long said that promoting and supporting democratic institutions should be a key tenet of our engagement with Africa, as institution building is essential to Africa's stability and its prosperity. In the case of Guinea—a nation that has great potential to flourish and thrive—credible elections are an important first step on the road to better governance.

TRIBUTE TO RON GETTELFINGER

Mr. LEVIN. Mr. President, leaders demonstrate their talent and character not when life is easy but at times of crisis. During the greatest crisis in the history of the American auto industry, that industry's workers and the communities in which they live have benefitted enormously from the leadership of a quiet Kentuckian whose devotion to working families cannot be overstated.

When Ron Gettelfinger took office as president of the United Auto Workers in 2002, I do not think anyone, and certainly not Ron, foresaw the turbulence ahead. As his 8 years as president of the UAW come to a close, it is time to congratulate and thank him for exceptional leadership in tough times.

Ron navigated those rough waters guided by two lights: a clear-eyed assessment of what was necessary to preserve America's auto industry, and the sure knowledge that millions of families depended on its preservation.

That knowledge came from Ron's days on the assembly line at Ford's Louisville assembly plant, from his days as his plant's local president, from his service as regional president for UAW members in Indiana and Kentucky, and from his time at Solidarity House in Detroit. He is a sharp, tough-minded negotiator, but underlying his talents and skills is a real emotional bond with the workers who have depended on his leadership. That bond with his members meant that when Ron Gettelfinger asked them to make sacrifices, they knew it was not because he was taking the easy way out, but because it was necessary.

The sacrifices have been great. Ron knows this better than anybody. But he also knows that in making those sacrifices, the workers of the UAW have set the stage for a renaissance in the U.S. auto industry, one that is already taking shape in the form of increased sales, more consumer confidence, and a commitment to the clean energy technologies that will shape our transportation future.

I have been proud to stand with Ron Gettelfinger in many of his battles. Members of the United Auto Workers honor the leaders who over nearly a century of progress and challenge have guided their union. I have no doubt that for generations yet to come, those workers will honor Ron's work in guiding their union through one of the most difficult periods in its history.

TRIBUTE TO NINA THOMAS

Mr. LEAHY. Mr. President, today I express my sincere congratulations and best wishes to Nina Thomas on her retirement as registrar at Vermont Law School. Since 1976, Nina has served that institution with dedication and a devotion to its students. As Ms. Thomas ends her many years of exceptional service to Vermont Law School and its students, I wish her the very best as she enters this new chapter of her life. I thank her for her service, and I know her commitment over the years has helped to make the school the special, unique place it is today.

Nina Thomas is a native of Vermont, having attended grade school in the same building that is now part of the Vermont Law School campus in South Royalton, VT. In 1976 she returned to be part of a fledgling institution where her care, her counsel, and her wisdom have made a difference in the lives of many law students who have passed through her office. Her dedication helped the school grow into a successful institution for legal education that is a source of pride for Vermont and Vermonters. Her career spanned from the early days of the school's beginnings to the present, where it stands as a national leader in environmental legal thinking and learning.

As Nina Thomas enters her retirement, I hope she will take great comfort in knowing that the mark she left at Vermont Law School will be a lasting one and that her contributions are part of the school's strong foundation. I know she will be dearly missed by faculty and staff and most especially the students to whom she has given so much.

TRIBUTE TO TOM HOWARD

Mr. LEAHY. Mr. President, I would like to pay tribute today to a man who has provided immeasurable leadership and dedication to the lives of young people and families around the State of Vermont, Tom Howard of East Montpelier. After 31 years as executive director, Tom will be retiring this month from the Washington County Youth Service Bureau/Boys & Girls Club.

Tom is a native Vermonter who, while growing up, lived in the Philippines, Panama, Germany, and throughout the United States. He served in the U.S. Army in Korea between 1963 and 1966, and earned a B.A. from Johnson State College in history and international relations in 1970. Tom went on to earn a master's degree in executive development in public service at Ball State University in 1974, and wrote his master's thesis on youthful offenders.

Appointed as executive director of the bureau in 1979, Tom has built the agency into a diverse organization with statewide impact. Under his leadership, the organization developed cutting-edge programs, like the Return House in Barre, VT—a program operated by the Washington County Youth Service Bureau for 18- to 22-year-old young men who are returning to the community after being incarcerated. In addition to his commitment to working with young people and youthful offenders, Tom has secured millions of dollars in Federal, State, and foundation grants to bring sustainable services and opportunities to youth.

We are fortunate in Vermont. I am always impressed by the high level of collaboration on behalf of Vermont's communities to solve its problems. Over the years, I have brought the Senate Judiciary Committee to Vermont several times for field hearings to explore community efforts to counter drug-related crime in rural America.

On each occasion, I have looked to Tom for testimony about the work he and his organization have done with youthful offenders. Tom not only offers his knowledge of work going on around the State, but provides the expertise of his organization, and personal stories about the lives of the young people he works with.

As a fellow photographer, I would be remiss if I failed to note that Tom's office documents a life full of adventure. His walls depict the bureau's accomplishments—such as when he was invited to represent Vermont's 21st Century Community Learning Center Programs at a White House Ceremony hosted by President Bill Clinton. They also capture the faces of those who inspire him, like the pupils for whom he served as a teacher and counselor at the Wittlich Prison in West Germany.

I believe Tom embodies the core principles of what it takes to serve Vermont's youth, from his skill as an administrator, to his contribution as a caring person. I thank Tom for all that he does, and I commend his work to the Senate as an example to others. We are grateful for his service to Vermont's young people and families for the past 31 years. Marcelle and I wish Tom and his family all the best.

ADDITIONAL STATEMENTS

LADY SEA WARRIORS SOFTBALL TEAM

● Mr. AKAKA. Mr. President, I heartily congratulate the Lady Sea Warriors of Hawaii Pacific University for winning the 2010 NCAA Division II Softball College World Series title. The team won the title on May 31, 2010, beating Valdosta State University, 4–3, at Heritage Park in St. Joseph, MO. This is the school's first national softball title.

I wish to congratulate the team members: Chante Tesoro, Kozy Toriano, Erin Fujita, Melissa Awa, Malia Killam, Chelsea Luckey, Ashley Valine, Ciera Senas, Breanne Patton, Pomaikai Kalakau, Casey Sugihara, Maile Kim, Ashley Fernandez, Nicole Morrow, Sherise Musquiz, Laine Shikuma, Celina Garces, and Caira Pires. A special congratulations goes to Casey Sugihara, Ciera Senas, Nicole Morrow, and Sherise Musquiz for being named to the All-Tournament Team. Musquiz was also named the Most Outstanding Player of the tournament.

The team's success is shared by their coaches: head coach Bryan Nakasone and assistants Howard Okita, Roger Javillo, Jon Correles, and Richard Nomura. A special thanks and congratulations goes to the coaches whose leadership inspired the team to succeed at the highest level. The team's success reflects their hard work and determination. It is a great honor for Hawaii to be represented by such fine athletes. I wish the Lady Sea Warriors and their coaches the best in their future endeavors.●

RAINBOW WAHINE SOFTBALL TEAM

● Mr. AKAKA. Mr. President, I wish to congratulate the University of Hawaii Women's softball team for its record-breaking 2010 season. The Rainbow Wahine captured the Western Athletic Conference regular season and tournament titles and won all three games in the regional tournament.

In one of the most memorable games in University of Hawaii softball history, the Rainbow Wahine defeated the top-seeded University of Alabama team at the Tuscaloosa Super Regionals and secured their first appearance in the NCAA Women's College World Series. The team set numerous school records this season including most runs scored, 488, hits, 578, and home runs, 158. Team members Melissa Gonzalez and Kelly Majam also earned the honor of being named 2010 Louisville Slugger/National Fastpitch Coaches Association All-Americans.

It is with great pleasure that I commend the Rainbow Wahine for a job well done. The team's superb season serves as a reminder that hard work and dedication can lead to success. Congratulations to team members: Kelly Majam, Jessica Iwata, Mikalemi Tagab-Cruz, Rachel Paragas, Brynne Buchanan, Tara Anguiano, Dara Pagaduan, Sarah Robinson, Stephanie Ricketts, Tasha Pagdilao, Jori Jasper, Jenna Rodriguez, Alexandra Aquirre, Kaia Parnaby, Traci Yoshikawa, Kanani Pu'u-Warren, Katie Grimes, Jocelyn Enrique, Amanda Tauali'i, Makani Duhaylonsod-Kaleimamahu, and Melissa Gonzalez.

I also wish to acknowledge the coaches for their leadership and commitment to the players: head coach Bob Coolen, associate head coach Deirdre Wisneski, assistant coach Kaulana Williams, and volunteer coach Dickie Titcomb. I wish the Rainbow Wahine all the best in their future endeavors.●

REMEMBERING ROBERT LITTLE EBERT

● Mr. CARDIN. Mr. President, I ask my colleagues to join me in paying tribute to Robert Little Ebert, a respected and inspiring Maryland community leader and philanthropist who passed away at age 93 on May 9, 2010.

Mr. Ebert served as Allegany County commissioner from 1962 to 1970, and he continued to dedicate himself to the progress and prosperity of the area throughout his lifetime. Mr. Ebert was especially dedicated to eradicating poverty throughout his community, and he demonstrated a consistent willingness to help people through his involvement in various philanthropic and community organizations.

Mr. Ebert was born in Parkersburg, WV in 1916, and attended Marietta College in Ohio, graduating in 1938. He later worked as a radio newscaster in the Midwest and served as an Ensign in the U.S. Navy during World War II. Following the war, Mr. Ebert moved to Cumberland, MD, to join his mother in the S.T. Little Jewelry Company, a family business founded by his great-grandfather in 1851. Mr. Ebert eventually became president and general manager of the company, and he devoted himself to the development and success of his business's locale in downtown Cumberland.

Mr. Ebert's leadership and business acumen helped shape downtown Cumberland. He served as chairman of the Downtown Cumberland Business Association and the Downtown Development Commission. He served as chairman of the Board of the Allegany County Department of Social Services and as chairman of the Allegany County Chapter of the American Red Cross and was involved with civic organizations such as the Cumberland Cultural Foundation and the Cumberland Rotary Club.

While Mr. Ebert often wished for his charitable contributions to remain anonymous and tried to stay behind-the-scenes, his philanthropic endeavors eventually inspired him to become the founding donor of the Community Trust Foundation. The Community Trust Foundation, established in 2006, serves Maryland's Allegany and Garrett Counties as well as West Virginia's Mineral County by providing the administrative services, sophisticated investment management, professional advice, and stewardship that help communities maximize their charitable giving and investing.

The Community Trust Foundation served as a stepping stone for Mr. Ebert to establish the Elta Mae and Robert Little Ebert Family Hope Fund. The Family Hope Fund is a leader in fostering cooperation and collaboration among the area's many philanthropic organizations that work to prevent poverty. The fund has made, and will continue to make, enormous achievements thanks to Mr. Ebert's leadership and dedication.

Mr. Ebert was immensely successful professionally, and he was also a loving husband, father, grandfather, and great-grandfather. He leaves behind three daughters, five granddaughters, and four great-grandchildren as well as countless friends and admirers.

I ask my colleagues to join me in remembering the many accomplishments of Mr. Robert Little Ebert and in recognizing him as a truly inspiring community leader and humanitarian.●

REGENT, NORTH DAKOTA

● Mr. CONRAD. Mr. President, today I recognize a community in North Dakota celebrating its 100th anniversary. On June 24 to 27, the residents of Regent will gather to celebrate their community's history and founding.

On the peaceful prairies of southwestern North Dakota, a city of just over 200 people will be joyfully celebrating 100 years of trials, tribulations, growth, and happiness. Regent was

founded on the railroad lines in 1910. Railroad officials gave it a regal-sounding name, thinking it would become the county seat. Early in its history, Regent was billed as ''The Queen City'' or ''The Wonder City.''

My good friend and colleague, a former North Dakota State tax commissioner and current U.S. Senator, BYRON DORGAN is from this great town. Senator DORGAN has never forgotten his roots, and that has helped make him into the highly respected and dedicated public servant that he is.

Today, the Enchanted Highway has brought a larger than life size example of the community's hard work and dedication to the State. The Enchanted Highway is off of Interstate 94 and is approximately 20 miles east of Dickinson, ND. It then extends for 32 miles south to Regent. The world's largest scrap metal sculptures portray part of the countryside's wonder and beauty from ''Pheasants on the Prairie'' to ''Deer Crossing.''

The community currently has the luxury of enjoying the finer aspects of life, such as fishing, participating in community activities, or spending time with family. The community's energy can be seen with this year's centennial celebration, filled with the zest and heart of the people. Over 4 days, Regent will be enjoying a watermelon feed, all-school reunion, a dance, parade, choral performances, and many more celebratory events.

Mr. President, I ask the Senate to join me in congratulating Regent, ND, and its residents on their first 100 years and in wishing them well in the future. By honoring Regent and all the other historic small towns of North Dakota, we keep the great tradition of the pioneering frontier spirit alive for future generations. It is places such as Regent that have helped to shape this country into what it is today, which is why this community is deserving of our recognition.

Regent has a proud past and a bright future.●

BRADLEY, SOUTH DAKOTA

● Mr. JOHNSON. Mr. President, today I pay tribute to the 125th anniversary of the founding of Bradley, SD. This small town has seen more than its fair share of hardships, but with strength and hard work, the citizens consistently band together to make the town an even better place to live and work.

As the Chicago, Milwaukee, and St. Paul Railroad expanded, the company decided to build a settlement for the workers to get mail delivered. They called it Prairie Hill. Once trains began running, businesses began forming 2 miles south of the original location. With land donated from the McKinney family, Bradley was eventually formed. This small town quickly became a popular location for homesteaders and developed into the largest primary wheat market in the country. In 1891, a fire nearly destroyed the town. Only a couple of buildings and homes withstood the fire. This strong community rallied together to rebuild their town. Another fire struck in 1916, but 800 volunteers came together, using a bucket brigade to again save the town.

Bradley acquired its name through an interesting turn of events. A group of laborers and a railroad official got in a brawl early one day. W.R. Bradley was visiting the town and saved the life of the chief engineer for construction. He was honored by having the town named after him.

Like a lot of small towns formed in South Dakota at this time, Bradley started as a railroad stop but quickly became more. Bradley is a caring community of people who work together when times get tough. They will honor their historical milestone with a weekend celebration, including craft booth and a food booth, a 5K race, and a softball tournament. I wish them the best for their weekend and their future.●

TRIBUTE TO WILLIAM A. RICHARDS

● Mr. REED. Mr. President, today I would like to recognize the accomplishments of William A. Richards—a friend, a colleague, and a dedicated public servant. Bill is retiring this month after nearly half a century of service to the U.S. Army and the Department of Defense. I had the privilege of working with Bill as an instructor at West Point. His lengthy career, as a soldier and as a civilian, truly exemplifies the motto of the Academy—''Duty, Honor, Country.''

Bill graduated from West Point in 1967 and served as an infantry officer in Vietnam and Germany. He continued his education at the Woodrow Wilson School at Princeton, receiving a master's degree in public policy. He then returned to West Point to supervise the core curriculum in American Government.

Following his return to West Point, Bill was selected for the prestigious position of speechwriter and executive assistant to NATO's Supreme Allied Commander—Europe. His exceptional work in this position resulted in his next assignment as speechwriter to Defense Secretary Caspar Weinberger. Bill held this position until his retirement in 1989, after serving for 22 years in uniform.

Bill then started a second career as a budget analyst in the office of the Under Secretary of Defense, Comptroller, at the Pentagon. His military experience and speechwriting skills enabled him to analyze and translate the complexity of the annual defense budget. After 20 years of serving our Nation in this role, Bill retires as someone who is highly respected for his knowledge, experience, and dedication.

I congratulate him on a job well done. He leaves a proud and enduring legacy of public service. I wish Bill and his wife Donna the very best in the years to come.●

MONROE ROTARY CLUB

● Mr. VITTER. Mr. President, today I am proud to recognize the members of the Monroe, LA, Rotary Club who have served our country honorably during war.

I would like to thank Kent Anderson, Edward Cascio, Tom Dansby, Kitty Degree, Donnie Franklin, George Hutchison, John Morris, Walt Pierron, and Barney Tucker for their courageous military service during wartime and for continued civic service in the greater Monroe area.

With the motto ''Service Above Self'' it is no surprise that these men would be inclined to be a member of Rotary. Their lifetime of service is exhibited not only in service to their fellow citizens during a time of war but also in continued commitment to their community.

Rotary's four-way test asks four questions of all things members think, say, and do. These questions are: Is it the truth? Is it fair to all concerned? Will it build goodwill and better friendships? Will it be beneficial to all concerned? These four simple questions have proven to be excellent guidelines for a life of service. We thank these men for serving the Monroe community with these principles. The Monroe Rotary Club has sponsored many local projects, including Boy Scouts, Girl Scouts, youth baseball, the Food Bank of Northeast Louisiana, and the Salvation Army, to name just a few.

Thus, today, I honor these veterans for their distinguished service in the U.S. armed services during wartime, and for their continued service to the State of Louisiana in the Monroe Rotary Club.●

MESSAGE FROM THE HOUSE

At 2:45 p.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 5502. An act to amend the effective date of the gift card provisions of the Credit Card Accountability Responsibility and Disclosure Act of 2009.

MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 5502. An act to amend the effective date of the gift card provisions of the Credit Card Accountability Responsibility and Disclosure Act of 2009; to the Committee on Banking, Housing, and Urban Affairs.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–6217. A communication from the General Counsel of the Department of Defense,

transmitting legislative proposals relative to the National Defense Authorization Bill for fiscal year 2011; to the Committee on Armed Services.

EC–6218. A communication from the Chairman and President of the Export-Import Bank, transmitting, pursuant to law, a report relative to transactions involving U.S. exports to South Korea; to the Committee on Banking, Housing, and Urban Affairs.

EC–6219. A communication from the Assistant Secretary, Office of Legislative Affairs, Department of Homeland Security, transmitting a legislative proposal ''To Amend the Federal Water Pollution Control Act to Disestablish the National Response Unit''; to the Committee on Environment and Public Works.

EC–6220. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Application of Section 469 to the Section 45D New Markets Tax Credit'' (Rev. Rul. 2010–16) received in the Office of the President of the Senate on June 11, 2010; to the Committee on Finance.

EC–6221. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Update of Weighted Average Interest Rates, Yield Curves, and Segment Rates'' (Notice No. 2010–47) received in the Office of the President of the Senate on June 11, 2010; to the Committee on Finance.

EC–6222. A communication from the Office Manager, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medicaid Program; Final Fiscal Year 2008, Revised Preliminary Fiscal Year 2009, and Preliminary Fiscal Year 2010 Disproportionate Share Hospital Allotments and Final Fiscal Year 2008, Revised Preliminary Fiscal Year 2009, and Preliminary Fiscal Year 2010 Disproportionate Share Hospital Institutions for Mental Disease Limits'' (RIN0938–AP66) received in the Office of the President of the Senate on June 10, 2010; to the Committee on Finance.

EC–6223. A communication from the Department of State, transmitting, pursuant to law, a report relative to the classified annex to the Nuclear Proliferation Assessment Statement (OSS Control No. 2010–0734); to the Committee on Foreign Relations.

EC–6224. A communication from the Department of State, transmitting, pursuant to law, a report relative to U.S. Assistance for the Government of Kenya (OSS Control No. 2010–0906); to the Committee on Foreign Relations.

EC–6225. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed amendment to a technical assistance agreement for the export of defense articles, including, technical data, and defense services for the upgrade of the Iraqi Ministry of Defense communication systems in the amount of $50,000,000 or more; to the Committee on Foreign Relations.

EC–6226. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed amendment to a technical assistance agreement for the export of defense articles, including, technical data, and defense services for the delivery, integration, and maintenance of the RF5800V–HH VHF Handheld, RF–5800V–MP VHF Manpack, RF–5800H–MP HF Manpack and the RF–7800S Secure Personnel Radio for end-use by the Sudan's People's Liberation Army Special Operations Command in the amount of $50,000,000 or more; to the Committee on Foreign Relations.

EC–6227. A communication from the Chief Executive Officer, Millennium Challenge Corporation, transmitting proposed legislation relative to the Millennium Challenge Act of 2003; to the Committee on Foreign Relations.

EC–6228. A communication from the Director, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled ''Federal Long Term Care Insurance Program: Eligibility Changes'' (RIN3206–AL92) received in the Office of the President of the Senate on June 10, 2010; to the Committee on Homeland Security and Governmental Affairs.

EC–6229. A communication from the Director, Office of Personnel Management, transmitting proposed legislation relative to permitting certain General Schedule Department of the Navy employees to earn an overtime rate that exceeds the overtime hourly rate cap that is normally applicable; to the Committee on Homeland Security and Governmental Affairs.

EC–6230. A communication from the Administrator of the Small Business Administration, transmitting, pursuant to law, the Semiannual Report from the Office of the Inspector General for the period from October 1, 2009, through March 31, 2010; to the Committee on Homeland Security and Governmental Affairs.

EC–6231. A communication from the Director, Peace Corps, transmitting, pursuant to law, the Office of Inspector General's Semiannual Report for the period of October 1, 2009, through March 31, 2010; to the Committee on Homeland Security and Governmental Affairs.

EC–6232. A communication from the Chairman, Board of Governors, U.S. Postal Service, transmitting, pursuant to law, the Semiannual Report on the Audit, Investigative, and Security Activities of the U.S. Postal Service for the period of October 1, 2009 through March 31, 2010; to the Committee on Homeland Security and Governmental Affairs.

EC–6233. A communication from the Director of Regulations Policy and Management, National Cemetery Administration, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled ''State Cemetery Grants'' (RIN2900–AM96) received in the Office of the President of the Senate on June 10, 2010; to the Committee on Veterans' Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mrs. BOXER, from the Committee on Environment and Public Works, without amendment:

H.R. 4275. To designate the annex building under construction for the Elbert P. Tuttle United States Court of Appeals Building in Atlanta, Georgia, as the ''John C. Godbold Federal Building''.

By Mr. LIEBERMAN, from the Committee on Homeland Security and Governmental Affairs, with an amendment:

S. 1508. A bill to amend the Improper Payments Information Act of 2002 (31 U.S.C. 3321 note) in order to prevent the loss of billions in taxpayer dollars.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. BARRASSO (for himself, Mr. CONRAD, Mr. CRAPO, Mr. RISCH, Mr. JOHNSON, Mr. THUNE, Ms. MURKOWSKI, Mr. BEGICH, Mr. SANDERS, Mr. TESTER, Mr. DORGAN, Mr. ENZI, and Mrs. SHAHEEN):

S. 3485. A bill to amend title 23, United States Code, to improve highway mobility in rural States for the benefit of all States; to the Committee on Environment and Public Works.

By Mr. BROWN of Ohio (for himself, Mr. SANDERS, Mr. ROCKEFELLER, Mr. SPECTER, Mr. BEGICH, Mr. FRANKEN, and Ms. MIKULSKI):

S. 3486. A bill to amend title 38, United States Code, to repeal the prohibition on collective bargaining with respect to matters and questions regarding compensation of employees of the Department of Veterans Affairs other than rates of basic pay, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. UDALL of Colorado:

S. 3487. A bill to amend the Public Utility Regulatory Policies Act of 1978 to provide electric consumers the right to access certain electric energy information, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. WYDEN (for himself and Mr. MERKLEY):

S. 3488. A bill to amend the Wild and Scenic Rivers Act to make technical corrections to the segment designations for the Chetco River, Oregon; to the Committee on Energy and Natural Resources.

By Mr. VITTER (for himself and Mr. WICKER):

S. 3489. A bill to terminate the moratorium on deepwater drilling issued by the Secretary of the Interior; to the Committee on Energy and Natural Resources.

By Mr. WARNER (for himself and Mr. WICKER):

S. 3490. A bill to clarify the rights and responsibilities of Federal entities in the spectrum relocation process, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. INOUYE:

S. 3491. A bill to amend title XVIII of the Social Security Act to provide for patient protection by establishing safe nurse staffing levels at certain Medicare providers, and for other purposes; to the Committee on Finance.

By Mr. LAUTENBERG:

S. 3492. A bill to amend the Outer Continental Shelf Lands Act to require the drilling of emergency relief wells, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. SPECTER (for himself, Ms. STABENOW, and Mr. MENENDEZ):

S. 3493. A bill to reauthorize and enhance Johanna's Law to increase public awareness and knowledge with respect to gynecologic cancers; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. GILLIBRAND (for herself and Mr. KOHL):

S. 3494. A bill to prevent mail, telemarketing, and Internet fraud targeting seniors in the United States, to promote efforts to increase public awareness of the enormous impact that mail, telemarketing, and Internet fraud have on seniors, to educate the public, seniors, their families, and their caregivers about how to identify and combat fraudulent activity, and for other purposes; to the Committee on the Judiciary.

By Mr. DORGAN (for himself and Mr. MERKLEY):

S. 3495. A bill to promote the deployment of plug-in electric drive vehicles, and for

other purposes; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BENNET (for himself, Mr. HATCH, Mr. ISAKSON, and Ms. KLOBUCHAR):

S. Res. 552. A resolution designating June 23, 2010, as ''Olympic Day''; to the Committee on the Judiciary.

By Ms. STABENOW (for herself and Mr. LIEBERMAN):

S. Res. 553. A resolution expressing the sense of the Senate that Congress should unwaveringly uphold the dignity and independence of older Americans; to the Committee on Health, Education, Labor, and Pensions.

ADDITIONAL COSPONSORS

S. 362

At the request of Mr. ROCKEFELLER, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 362, a bill to amend title 38, United States Code, to improve the collective bargaining rights and procedures for review of adverse actions of certain employees of the Department of Veterans Affairs, and for other purposes.

S. 384

At the request of Mr. LUGAR, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 384, a bill to authorize appropriations for fiscal years 2010 through 2014 to provide assistance to foreign countries to promote food security, to stimulate rural economies, and to improve emergency response to food crises, to amend the Foreign Assistance Act of 1961, and for other purposes.

S. 592

At the request of Ms. CANTWELL, the name of the Senator from New Hampshire (Mrs. SHAHEEN) was added as a cosponsor of S. 592, a bill to implement the recommendations of the Federal Communications Commission report to the Congress regarding low-power FM service.

S. 752

At the request of Mr. DURBIN, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of S. 752, a bill to reform the financing of Senate elections, and for other purposes.

S. 1158

At the request of Ms. STABENOW, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 1158, a bill to authorize the Secretary of Health and Human Services to conduct activities to rapidly advance treatments for spinal muscular atrophy, neuromuscular disease, and other pediatric diseases, and for other purposes.

S. 1345

At the request of Mr. REED, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 1345, a bill to aid and support pediatric involvement in reading and education.

S. 1698

At the request of Mr. BINGAMAN, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of S. 1698, a bill to provide grants to the States to improve high schools and raise graduation rates while ensuring rigorous standards, to develop and implement effective school models for struggling students and dropouts, and to improve State policies to raise graduation rates, and for other purposes.

S. 3033

At the request of Mr. DURBIN, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. 3033, a bill to amend title 11, United States Code, to improve protections for employees and retirees in business bankruptcies.

S. 3084

At the request of Ms. KLOBUCHAR, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 3084, a bill to increase the competitiveness of United States businesses, particularly small and medium-sized manufacturing firms, in interstate and global commerce, foster job creation in the United States, and assist United States businesses in developing or expanding commercial activities in interstate and global commerce by expanding the ambit of the Hollings Manufacturing Extension Partnership program and the Technology Innovation Program to include projects that have potential for commercial exploitation in nondomestic markets, providing for an increase in related resources of the Department of Commerce, and for other purposes.

S. 3295

At the request of Mr. SCHUMER, the name of the Senator from Wisconsin (Mr. KOHL) was added as a cosponsor of S. 3295, a bill to amend the Federal Election Campaign Act of 1971 to prohibit foreign influence in Federal elections, to prohibit government contractors from making expenditures with respect to such elections, and to establish additional disclosure requirements with respect to spending in such elections, and for other purposes.

S. 3311

At the request of Mr. KERRY, the names of the Senator from West Virginia (Mr. BYRD) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. 3311, a bill to improve and enhance the capabilities of the Department of Defense to prevent and respond to sexual assault in the Armed Forces, and for other purposes.

S. 3460

At the request of Mr. SANDERS, the names of the Senator from New Hampshire (Mrs. SHAHEEN) and the Senator from Washington (Ms. CANTWELL) were added as cosponsors of S. 3460, a bill to require the Secretary of Energy to provide funds to States for rebates, loans, and other incentives to eligible individuals or entities for the purchase and installation of solar energy systems for properties located in the United States, and for other purposes.

S. 3466

At the request of Mr. LEAHY, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. 3466, a bill to require restitution for victims of criminal violations of the Federal Water Pollution Control Act, and for other purposes.

S. 3472

At the request of Mr. MENENDEZ, the name of the Senator from Maryland (Mr. CARDIN) was added as a cosponsor of S. 3472, a bill to amend the Oil Pollution Act of 1990 to require oil polluters to pay the full costs of oil spills, and for other purposes.

S.J. RES. 29

At the request of Mrs. FEINSTEIN, the names of the Senator from New Mexico (Mr. BINGAMAN), the Senator from Washington (Ms. CANTWELL) and the Senator from Montana (Mr. TESTER) were added as cosponsors of S.J. Res. 29, a joint resolution approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003.

S. RES. 548

At the request of Mr. CORNYN, the name of the Senator from Oklahoma (Mr. COBURN) was added as a cosponsor of S. Res. 548, a resolution to express the sense of the Senate that Israel has an undeniable right to self-defense, and to condemn the recent destabilizing actions by extremists aboard the ship *Mavi Marmara*.

AMENDMENT NO. 4310

At the request of Mr. SCHUMER, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of amendment No. 4310 intended to be proposed to H.R. 4213, a bill to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes.

AMENDMENT NO. 4311

At the request of Mr. FRANKEN, the name of the Senator from New Hampshire (Mrs. SHAHEEN) was added as a cosponsor of amendment No. 4311 proposed to H.R. 4213, a bill to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes.

AMENDMENT NO. 4318

At the request of Mr. SANDERS, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of amendment No. 4318 proposed to H.R. 4213, a bill to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes.

AMENDMENT NO. 4321

At the request of Mr. CASEY, the names of the Senator from Connecticut (Mr. DODD), the Senator from Washington (Mrs. MURRAY), the Senator from New Hampshire (Mrs. SHAHEEN),

the Senator from West Virginia (Mr. ROCKEFELLER) and the Senator from California (Mrs. BOXER) were added as cosponsors of amendment No. 4321 intended to be proposed to H.R. 4213, a bill to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes.

AMENDMENT NO. 4333

At the request of Mr. THUNE, the names of the Senator from Wyoming (Mr. ENZI) and the Senator from Georgia (Mr. CHAMBLISS) were added as cosponsors of amendment No. 4333 proposed to H.R. 4213, a bill to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes.

AMENDMENT NO. 4344

At the request of Mr. REID, the names of the Senator from Connecticut (Mr. DODD) and the Senator from New Jersey (Mr. MENENDEZ) were added as cosponsors of amendment No. 4344 proposed to H.R. 4213, a bill to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BARRASSO (for himself, Mr. CONRAD, Mr. CRAPO, Mr. RISCH, Mr. JOHNSON, Mr. THUNE, Ms. MURKOWSKI, Mr. BEGICH, Mr. SANDERS, Mr. TESTER, Mr. DORGAN, Mr. ENZI, and Mrs. SHAHEEN):

S. 3485. A bill to amend title 23, United States Code, to improve highway mobility in rural States for the benefit of all States; to the Committee on Environment and Public Works.

Mr. CONRAD. Mr. President, I am pleased to join my colleague Senator BARRASSO in introducing the Rural Mobility and Access for America Act.

The transportation challenges in rural States are unique. In my State of North Dakota, we have more miles of road per capita than any State in the Nation. There are more than 11,000 miles of highway in North Dakota, which translates into approximately 166 miles of road for every 1,000 people in North Dakota. We have a very large road network with a small population base to support it. In fact, North Dakota only has 16 people supporting each lane mile of Federal-aid road. The national average is 129 people per lane mile.

Highways in North Dakota and other rural States connect the Nation and help ensure the effective movement of people and goods across the country. Today, the highways in the western part of my State are being impacted by a rise in truck traffic as a result of the oil boom occurring from the development of the Bakken formation. Our roads and highways are seeing a dramatic increase in trucks that are transporting supplies to the oil fields or oil to gathering lines.

The agriculture industry is also reliant on a strong, nationally connected road network to move products and services. Approximately 69 percent of the goods shipped annually from North Dakota are carried by truck. Significant and growing agricultural businesses throughout my state rely on the road network to receive raw goods and transport their finished products to market.

In addition, we have a large percentage of truck traffic that crosses our state. Sixty percent of the truck traffic does not originate or terminate within the state, but it still has an impact on our highways. In the next 10 years, commercial trucking in North Dakota is expected to increase by 42 percent.

Discussions surrounding the reauthorization of the highway bill have focused on congestion and the needs of large metropolitan areas. Some of the proposals being advanced shift money from the traditional highway formula programs to set-asides for large metro areas. However, maintaining a nationally connected system requires substantial investments in highways in and across rural areas as well.

It is important that our transportation policy continues to recognize the importance of investment in rural States, like North Dakota. The bill I am introducing with Senator BARRASSO makes certain rural States are not left behind. Under this proposal, if a metro mobility program is included in the highway reauthorization, a corresponding rural program would be funded at a level equal to ⅓ of the amount provided for the metro mobility program. The funds would be distributed evenly to the 18 States that qualify under our bill, and the States could use the funds for any of the eligible uses under the Surface Transportation Program.

Our bill provides an important balance to make sure our roads, both urban and rural, get the support necessary to maintain a nationally connected system. I urge my colleagues to support it.

By Mr. UDALL of Colorado:

S. 3487. A bill to amend the Public Utility Regulatory Policies Act of 1978 to provide electric consumers the right to access certain electric energy information, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. UDALL of Colorado. Mr. President, I rise today to discuss a bill that I filed, called the Electric Consumer Right to Know Act. This bill takes a common-sense step toward broadening consumers' access to data about their electricity usage. On top of that, I am proud to say that this idea came directly from one of my Colorado constituents.

In today's marketplace, consumers have a clear understanding of the price of gasoline and what their car mileage means for their pocket books. They also have ready access to the number of minutes remaining on their cell phone. However, consumers lack clear, timely data about their electricity use and its price. Providing increased transparency will help consumers with their decisions about electricity usage in their home or business.

The bill I filed today would provide timely access to these data by establishing consumers' clear right to access data on their own electricity usage. This right is an important step toward a more effective, reliable and efficient electrical grid, and a step toward helping consumers use electricity more efficiently and save money on their electric bills.

For the past year I have been travelling across Colorado as part of a work force tour to talk directly to Coloradans and hear their innovative policy ideas to create jobs, including hosting an Energy Jobs Summit in Denver back in February. As part of this Summit, we asked experts in energy policy and business to join us for a conversation about how we can better position Colorado and the United States to lead in the 21st century clean energy economy.

We heard from Energy Secretary Steven Chu, Governor Bill Ritter, Senator MICHAEL BENNET, and Congressman ED PERLMUTTER. But, more importantly, we heard from Coloradans who came to share their views on what the Federal Government can do, or in some instances not do, to support job creation and transition to cleaner and more efficient energy use.

One consumer participant at the Summit noted that, even though he had a smart meter at his home, his power company would not let him access his electrical meter readings to learn how he was using electricity. If he could access those readings, he could better understand his energy use, learn how to be more energy efficient and save money. That is why I am introducing the Electric Consumer Right to Know Act to improve communication between the consumers and their utility, spur innovation in developing creative technologies that will save energy, and provide clarity while these programs are being developed.

This bill has several important parts. First, it establishes a framework for the right to access information, defining specifically what that right means, and giving clarity to those who will further develop and enforce that right. This bill says that if you have a smart meter, or similar electronic device that reads electric energy usage, that you ought to have access to the utility company's data on your energy use.

How that access is granted is delineated in three ways in this bill:

If your meter communicates with your utility on an hourly or shorter time interval, my bill states that your meter readings should be available within 24 hours.

Second, if your smart meter is capable of communicating energy use data directly from your meter, under this bill, you have the right to access those data and use them directly at your home or business.

Third, for consumers who have standard meters, with this bill, there are no additional requirements except that your readings shall be available electronically in a timely manner.

Next, the bill directs the Federal Regulatory Energy Commission to convene an open, extensive and inclusive stakeholder process to work through the details of this measure to ensure that implementing the consumers' right to access their information also retains consumer privacy, and ensures the integrity and reliability of the grid.

The outcome of this process will be national guidelines establishing the right of consumers to access their electricity data, including minimum national standards that utilities must meet to ensure that right of access. In developing those minimum standards, the FERC will take into consideration the ongoing and important work at the National Institute of Standards and Technology in developing a smart grid roadmap, as well as the innovative state and local programs already being developed across the country to integrate smart meters into the electrical grid, including Colorado, California, Texas, Pennsylvania, and others.

In Colorado, Xcel Energy has been working with the City of Boulder on a pilot program called SmartGridCity to develop a community-scale smart grid with over 20,000 residents participating. Not only are these consumers improving their understanding of their electricity use, Xcel notes that they have already avoided several blackouts due to the improved communication between consumers and the grid. Power interruptions cost the American economy roughly $80 billion per year and ⅔ of those losses come from interruptions lasting less than five minutes. I am proud to see Coloradans and our state's utilities taking important steps together in learning how to make the grid more reliable, efficient, and help save everyone money.

Finally, part of ensuring the right to access your data includes the right to retain the privacy of your data. When consumers gain access to their data, they will also need to clearly understand how it will be used, especially when consumers grant third-party access to it. This is why this bill states that the FERC will establish, among other important measures, guidelines for consumer consent requirements. Retaining privacy is critical to building consumer trust in the smart grid and facilitating the transition to when the smart grid becomes a part of everyday life for every American family.

I look forward to working with my colleagues and all interested stakeholders in establishing this right, defining it in a way that eliminates unintended consequences, and enforcing this right in a way that improves the efficient use of electrical energy.

This bill is an important first step in implementing smart meters across the country, moving us toward an electrical grid that is more reliable and more efficient a smart grid' if you will. There are several pieces of the puzzle that will be required to realize that future, and one critical part of that puzzle is the right of consumers to access their electricity data. I urge my colleagues of both parties to join me in supporting this important legislation.

Mr. SPECTER (for himself, Ms. STABENOW, and Mr. MENENDEZ):

S. 3493. A bill to reauthorize and enhance Johanna's Law to increase public awareness and knowledge with respect to gynecologic cancers; to the Committee on Health, Education, Labor, and Pensions.

Mr. SPECTER. Mr. President, I have sought recognition today to introduce The Gynecological Cancer Education and Awareness Act of 2010 also known as Johanna's Law.

Every year, over 80,000 women in the United States are newly diagnosed with some form of gynecologic cancer such as ovarian, uterine, or cervical cancer. In 2009, 28,000 American women are estimated to have died from these cancers.

Early detection of these cancers must be improved to decrease this tragic loss of life. Unfortunately, thousands of women in the U.S. each year aren't diagnosed until their cancers have progressed to more advanced and far less treatable stages. In the case of ovarian cancer, which kills more women in the U.S. than all other gynecologic cancers combined, more than 40 percent of all new diagnoses take place after this cancer has progressed beyond its earliest and most survivable stage.

Women are often diagnosed many months, sometimes more than a year after they first experience symptoms due to a lack of knowledge of early warning signs of gynecological cancers. Adding to the challenge of a prompt and accurate diagnosis is the similarity of gynecological cancer symptoms to those of more common gastrointestinal conditions and benign gynecologic conditions such as perimenopause and menopause. Women too often receive diagnoses reflecting these benign conditions without their physicians having first considered gynecologic cancers as a possible cause of the symptoms.

The Gynecological Cancer Education and Awareness Act has improved early detection of gynecologic cancers by creating a national awareness and an education outreach campaign to inform physicians and individuals of the risk factors and symptoms of these diseases. When gynecological cancer is detected in its earliest stage, patients 5–year survival rates are greater than 90 percent and many go on to live normal, healthy lives.

The national awareness campaign has been carried out by the Department of Health and Human Services, HHS, to increase women's awareness and knowledge of gynecologic cancers. The campaign has maintained and distributed a supply of written materials that provide information to the public about gynecologic cancers. Further, the program has developed public service announcements encouraging women to discuss their risks for gynecologic cancers with their physicians, and inform the public about the availability of written materials and how to obtain them. The cost of continuing this awareness campaign is $5.5 million per year from 2010–2012, totaling $16.5 million.

The educational outreach campaign will be carried out through demonstration grants through HHS. These demonstration grants will go to local and national non-profits to test different outreach and education strategies, including those directed at providers, women, and their families. Groups with demonstrated expertise in gynecologic cancer education, treatment, or in working with groups of women who are at especially high risk will be given priority. Grant funding recipients will also be asked to work in cooperation with health providers, hospitals, and state health departments. The projected cost of the educational outreach campaign is $5 million per year from 2010–2012, totaling $15 million.

This legislation was brought to my attention by my friend Fran Drescher, who was diagnosed with uterine cancer in 2000 and whose diagnosis was also delayed due to her lack of knowledge about symptoms of this disease. She has recovered from uterine cancer and is advocating on behalf of gynecological cancer awareness. She also brought to my attention one of the many victims of gynecological cancers, Johanna Silver Gordon, after whom this bill is named, who was diagnosed at an advanced stage of ovarian cancer.

Johanna, the daughter and sister of physicians, was extremely health conscious taking the appropriate measures to maintain a healthy lifestyle including exercising regularly, eating nutritiously, and receiving annual pap smears and pelvic exams. Johanna however did not have the information to know that the gastric symptoms she experienced in the fall of 1996 were common symptoms of ovarian cancer. She didn't learn these crucial facts until after she was diagnosed at an advanced stage of this cancer. Despite aggressive treatment that included four surgeries, various types of chemotherapy, and participation in two clinical trials, Johanna died from ovarian cancer 3 1/2 years after being diagnosed. Johanna is survived by her sister Sheryl Silver who has tirelessly worked to increase the information available regarding gynecological cancers.

As former Chairman and Ranking Member of the Labor, Health and Human Services, and Education Appropriations Subcommittee, I led, along with Senator HARKIN, the effort to double funding for the National Institutes of Health, NIH, over 5 years. Funding

for the NIH has increased from $12 billion in fiscal year 1995 to $27 billion in fiscal year 2003. In 2004, the NIH, through the National Cancer Institute provided $243 million for gynecological cancer research. We must continue this growth to gain more information about gynecological cancers so that we can find a cure for this cancer.

I believe this bill can provide desperately needed information to physicians and individuals so that women can be diagnosed faster and more effectively. I urge my colleagues to move this legislation forward promptly.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3493

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REAUTHORIZATION AND ENHANCEMENT OF JOHANNA'S LAW.

(a) IN GENERAL.—Section 317P(d)(4) of the Public Health Service Act (42 U.S.C. 247b–17(d)(4)) is amended by inserting after ''2009'' the following: '', $16,500,000 for the period of fiscal years 2010 through 2012, and such sums as are necessary for each subsequent fiscal year''.

(b) COLLABORATION WITH NONPROFIT GYNECOLOGIC CANCER ORGANIZATIONS.—Section 317P(d) of such Act (42 U.S.C. 247b–17(d)) is amended by adding at the end the following new paragraph:

''(5) COLLABORATION WITH NONPROFIT GYNECOLOGIC CANCER ORGANIZATIONS.—In carrying out the national campaign under this subsection, the Secretary shall collaborate with the leading nonprofit gynecologic cancer organizations, with a mission both to conquer ovarian cancer nationwide and to provide outreach to State and local governments and communities, for the purpose of determining the best practices for providing gynecologic cancer information and outreach services to varied populations.''.

SEC. 2. DEMONSTRATION PROJECTS REGARDING OUTREACH AND EDUCATION STRATEGIES RELATING TO GYNECOLOGIC CANCER.

(a) IN GENERAL.—Section 317P of the Public Health Service Act (42 U.S.C. 247b–17) is amended by adding at the end the following new subsection:

''(e) DEMONSTRATION PROJECTS REGARDING OUTREACH AND EDUCATION STRATEGIES.—

''(1) IN GENERAL.—The Secretary shall carry out a program to make grants to nonprofit private entities for the purpose of carrying out demonstration projects to test different outreach and education strategies to increase the awareness and knowledge of women and health care providers with respect to gynecologic cancers, including early warning signs, risk factors, prevention, screening, and treatment options. Such strategies shall include strategies directed at women and their families, physicians, nurses, and key health professionals.

''(2) PREFERENCES IN MAKING GRANTS.—In making grants under paragraph (1), the Secretary shall give preference to—

''(A) applicants with demonstrated expertise in gynecologic cancer education or treatment or in working with groups of women who are at especially high risk of gynecologic cancers; and

''(B) applicants that, in the demonstration project funded by the grant, will establish linkages between physicians, nurses, and key health professionals, hospitals, payers, and State health departments.

''(3) APPLICATION FOR GRANT.—A grant may be made under paragraph (1) only if an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this subsection.

''(4) CERTAIN REQUIREMENTS.—In making grants under paragraph (1)—

''(A) the Secretary shall make grants to not fewer than five applicants, subject to the extent of amounts made available in appropriations Acts; and

''(B) the Secretary shall ensure that information provided through demonstration projects under such grants is consistent with the best available medical information.

''(5) REPORT TO CONGRESS.—Not later than 6 months after the date of the enactment of this subsection and annually thereafter, the Secretary shall submit to the Congress a report that—

''(A) summarizes the activities of demonstration projects under paragraph (1);

''(B) evaluates the extent to which the projects were effective in increasing early detection of gynecologic cancers and awareness of risk factors and early warning signs in the populations to which the projects were directed; and

''(C) identifies barriers to early detection and appropriate treatment of such cancers.

''(6) AUTHORIZATION OF APPROPRIATIONS.—

''(A) IN GENERAL.—For purposes of carrying out this subsection, there is authorized to be appropriated in the aggregate $15,000,000 for the period of fiscal years 2010 through 2012 and such sums as are necessary for each subsequent fiscal year.

''(B) ADMINISTRATION, TECHNICAL ASSISTANCE, AND EVALUATION.—Of the amounts appropriated under subparagraph (A), not more than 9 percent may be expended for the purpose of administering this subsection, providing technical assistance to grantees under this subsection, and preparing the report under paragraph (5).''.

(b) CONFORMING AMENDMENT.—Subsection (d)(3)(A) of such section is amended by inserting ''(other than subsections (e))'' after ''this section''.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 552—DESIGNATING JUNE 23, 2010, AS ''OLYMPIC DAY''

Mr. BENNET (for himself, Mr. HATCH, Mr. ISAKSON, and Ms. KLOBUCHAR) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 552

Whereas Olympic Day celebrates the Olympic ideal of developing peace through sport;

Whereas June 23 marks the date on which the Congress of Paris approved the proposal of Pierre de Coubertin to found the modern Olympics;

Whereas thousands of people in more than 170 countries will celebrate the ideals of the Olympic spirit on June 23, 2010;

Whereas for more than a century, the Olympic movement has built a more peaceful and better world by—

(1) educating young people through amateur athletics;

(2) bringing together athletes from many countries in friendly competition; and

(3) forging new relationships bound by friendship, solidarity, and fair play;

Whereas the United States Olympians and Paralympians continue to achieve competitive excellence, preserve the Olympic ideals, and inspire all people of the United States;

Whereas community celebrations of Olympic Day improve the communities of the United States and inspire the Olympic and Paralympic champions of tomorrow;

Whereas Olympic Day encourages the development of Olympic and Paralympic sport in the United States;

Whereas Olympic Day encourages the youth of the United States to participate in and support Olympic and Paralympic sport; and

Whereas, as of the date of approval of this resolution, enthusiasm for Olympic and Paralympic sport is at an all-time high: Now, therefore, be it

Resolved, That the Senate—

(1) designates June 23, 2010, as ''Olympic Day'';

(2) supports the goals and ideals of Olympic Day; and

(3) promotes—

(A) the fitness and well-being of all people of the United States; and

(B) the Olympic ideals of fair play, perseverance, respect, and sportsmanship.

SENATE RESOLUTION 553—EXPRESSING THE SENSE OF THE SENATE THAT CONGRESS SHOULD UNWAVERINGLY UPHOLD THE DIGNITY AND INDEPENDENCE OF OLDER AMERICANS

Ms. STABENOW (for herself and Mr. LIEBERMAN) submitted the following resolution; which was referred to the Committee on Health, Education, Labor, and Pensions:

S. RES. 553

Whereas older Americans are a diverse group of men and women who have worked hard throughout their lives to provide for their families and defend the United States during critical periods in history;

Whereas older Americans deserve a dignified, secure, and independent retirement for the years of service they have provided to the United States;

Whereas the percentage of the United States population that is 65 years of age or older is rapidly expanding, particularly veterans;

Whereas many Americans are living longer, working longer, and enjoying healthier, more active lifestyles than past generations;

Whereas older Americans rely heavily on Federal programs such as Social Security, Medicare, Medicaid, and, for veterans, TRICARE, for financial security and high-quality, affordable health care;

Whereas the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.) provides Federally-funded community-based social services and nutritional support programs to more than 10,000,000 older Americans each year;

Whereas notwithstanding Federal programs, older Americans experience greater financial losses during economic downturns and are subject to higher incidences of poverty, hunger, and homelessness;

Whereas older Americans seek to leave a legacy of a strong and stable economy to future generations that maintains a commitment to Social Security, Medicare, Medicaid, and the provision of benefits to veterans;

Whereas older Americans are increasingly the victims of fraud, scams, exploitation, and even physical abuse, actions that threaten the dignity, financial security, and access

to quality health care of older Americans; and

Whereas the 111th Congress has passed legislation that—

(1) protects the dignity of older Americans by strengthening efforts to eliminate waste, fraud, and abuse in Medicare and Medicaid; and

(2) prevents irresponsible lending practices that target older Americans and threaten to erode the resources that older Americans have worked their entire lives to save: Now, therefore, be it

Resolved, That it is the sense of the Senate that Congress should unwaveringly uphold the dignity and independence of older Americans by supporting efforts that guarantee for the older Americans—

(1) financial security;

(2) quality and affordable health and long-term care;

(3) protection from abuse, scams, and exploitation;

(4) a strong economy now and for future generations; and

(5) safe and livable communities with adequate housing and transportation options.

AMENDMENTS SUBMITTED AND PROPOSED

SA 4351. Mr. ISAKSON (for himself and Mr. ALEXANDER) submitted an amendment intended to be proposed to amendment SA 4301 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table.

SA 4352. Mr. HATCH submitted an amendment intended to be proposed to amendment SA 4301 proposed by Mr. BAUCUS to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 4353. Mr. BAYH (for himself, Mr. SHELBY, Mrs. LINCOLN, Mr. VITTER, and Ms. LANDRIEU) submitted an amendment intended to be proposed by him to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 4354. Mr. INOUYE submitted an amendment intended to be proposed to amendment SA 4301 proposed by Mr. BAUCUS to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 4355. Ms. CANTWELL (for herself, Mr. VITTER, Mrs. MURRAY, Ms. STABENOW, and Mr. INOUYE) submitted an amendment intended to be proposed to amendment SA 4301 proposed by Mr. BAUCUS to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 4356. Mr. BUNNING (for himself and Mr. ROCKEFELLER) submitted an amendment intended to be proposed to amendment SA 4301 proposed by Mr. BAUCUS to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 4357. Mr. BOND submitted an amendment intended to be proposed to amendment SA 4301 proposed by Mr. BAUCUS to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 4358. Mr. HATCH submitted an amendment intended to be proposed to amendment SA 4301 proposed by Mr. BAUCUS to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 4359. Mr. PRYOR (for himself, Mr. COCHRAN, and Mrs. LINCOLN) submitted an amendment intended to be proposed to amendment SA 4301 proposed by Mr. BAUCUS to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 4360. Mr. FEINGOLD submitted an amendment intended to be proposed to amendment SA 4301 proposed by Mr. BAUCUS to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 4361. Mr. NELSON of Florida submitted an amendment intended to be proposed to amendment SA 4301 proposed by Mr. BAUCUS to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 4362. Mr. LEVIN (for himself, Mr. KAUFMAN, Mr. NELSON of Florida, Mrs. SHAHEEN, Mrs. MCCASKILL, Mr. WHITEHOUSE, and Mr. REED) submitted an amendment intended to be proposed to amendment SA 4301 proposed by Mr. BAUCUS to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 4363. Ms. CANTWELL (for herself, Mr. LEMIEUX, Mrs. FEINSTEIN, Ms. STABENOW, Mr. MERKLEY, Mr. NELSON of Nebraska, and Mr. MENENDEZ) submitted an amendment intended to be proposed to amendment SA 4301 proposed by Mr. BAUCUS to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 4364. Mr. WARNER submitted an amendment intended to be proposed to amendment SA 4301 proposed by Mr. BAUCUS to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 4365. Mr. WARNER submitted an amendment intended to be proposed to amendment SA 4301 proposed by Mr. BAUCUS to the bill H.R. 4213, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 4351. Mr. ISAKSON (for himself and Mr. ALEXANDER) submitted an amendment intended to be proposed to amendment SA 4301 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

At the end of part I of subtitle B of title II, insert the following:

SEC. —. FIRST-TIME HOMEBUYER CREDIT.

(a) IN GENERAL.—Paragraph (2) of section 36(h) is amended by striking ''paragraph (1) shall be applied by substituting 'July 1, 2010'.'' and inserting ''and who purchases such residence before October 1, 2010, paragraph (1) shall be applied by substituting 'October 1, 2010'.''.

(b) CONFORMING AMENDMENT.—Subparagraph (B) of section 36(h)(3) is amended by inserting ''and for 'October 1, 2010'.'' after ''for 'July 1, 2010'.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to residences purchased after June 30, 2010.

(d) TRANSFER OF STIMULUS FUNDS.—Notwithstanding section 5 of the American Recovery and Reinvestment Act of 2009, from the amounts appropriated or made available and remaining unobligated under division A of such Act (other than under title X of such division A), the Director of the Office of Management and Budget shall transfer from time to time to the general fund of the Treasury an amount equal to the net decrease in revenues resulting from the enactment of subsections (a) and (b).

SA 4352. Mr. HATCH submitted an amendment intended to be proposed to amendment SA 4301 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VI, insert the following:

SEC. 6___. WAIVER OF EMPLOYER HEALTH SHARED RESPONSIBILITY PAYMENT IN CASE OF JOB LOSSES.

(a) IN GENERAL.—Section 4980H of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

''(e) WAIVER UPON CERTIFICATION OF JOB LOSSES.—Subsections (a) and (b) shall not apply to any employer who certifies to the Secretary and the Secretary of Labor, at such time and in such manner as such Secretaries require, that the imposition of an assessable payment would result in the employer reducing employees.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SA 4353. Mr. BAYH (for himself, Mr. SHELBY, Mrs. LINCOLN, Mr. VITTER, and Ms. LANDRIEU) submitted an amendment intended to be proposed by him to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 231 and insert the following:

SEC. 231. ELECTION FOR DIRECT PAYMENT OF LOW-INCOME HOUSING CREDIT FOR 2010.

(a) IN GENERAL.—Section 42 is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

''(n) ELECTION FOR DIRECT PAYMENT OF CREDIT.—

''(1) IN GENERAL.—The housing credit agency of each State shall be allowed a credit in an amount equal to such State's 2010 low-income housing refundable credit election amount, which shall be payable by the Secretary as provided in paragraph (5).

''(2) 2010 LOW-INCOME HOUSING REFUNDABLE CREDIT ELECTION AMOUNT.—For purposes of this subsection, the term '2010 low-income housing refundable credit election amount' means, with respect to any State, such amount as the State may elect which does not exceed 85 percent of the product of—

''(A) the sum of—

''(i) 100 percent of the State housing credit ceiling for 2010 which is attributable to amounts described in clauses (i) and (iii) of subsection (h)(3)(C), plus any credits returned to the State attributable to section 1400N(c) (including credits made available under such section as applied by reason of sections 702(d)(2) and 704(b) of the Tax Extenders and Alternative Minimum Tax Relief Act of 2008), and

''(ii) 40 percent of the State housing credit ceiling for 2010 which is attributable to amounts described in clauses (ii) and (iv) of such subsection, plus any credits for 2010 attributable to the application of such section 702(d)(2) and 704(b), multiplied by

''(B) 10.

For purposes of subparagraph (A)(ii), in the case of any area to which section 702(d)(2) or 704(b) of the Tax Extenders and Alternative Minimum Tax Relief Act of 2008 applies, section 1400N(c)(1)(A) shall be applied without regard to clause (i).

''(3) COORDINATION WITH NON-REFUNDABLE CREDIT.—For purposes of this section, the amounts described in clauses (i) through (iv) of subsection (h)(3)(C) with respect to any State for 2010 shall each be reduced by so much of such amount as is taken into account in determining the amount of the credit allowed with respect to such State under paragraph (1).

''(4) SPECIAL RULE FOR BASIS.—Basis of a qualified low-income building shall not be reduced by the amount of any payment made under this subsection.

''(5) PAYMENT OF CREDIT; USE TO FINANCE LOW-INCOME BUILDINGS.—The Secretary shall pay to the housing credit agency of each

State an amount equal to the credit allowed under paragraph (1). Rules similar to the rules of subsections (c) and (d) of section 1602 of the American Recovery and Reinvestment Tax Act of 2009 shall apply with respect to any payment made under this paragraph, except that such subsection (d) shall be applied by substituting 'January 1, 2012' for 'January 1, 2011'.''.

(b) CONFORMING AMENDMENT.—Section 1324(b)(2) of title 31, United States Code, is amended by inserting ''42(n),'' after ''36C,''.

SEC. 232. LOW-INCOME HOUSING GRANT ELECTION.

(a) CLARIFICATION OF ELIGIBILITY OF LOW-INCOME HOUSING CREDITS FOR LOW-INCOME HOUSING GRANT ELECTION.—Paragraph (1) of section 1602(b) of the American Recovery and Reinvestment Tax Act of 2009 is amended—

(1) by inserting '', plus any increase for 2009 or 2010 attributable to section 1400N(c) of such Code (including credits made available under such section as applied by reason of sections 702(d)(2) and 704(b) of the Tax Extenders and Alternative Minimum Tax Relief Act of 2008)'' after ''1986'' in subparagraph (A), and

(2) by inserting '', plus any credits for 2009 attributable to the application of such section 702(d)(2) and 704(b)'' after ''such section'' in subparagraph (B).

(b) APPLICATION OF ADDITIONAL HOUSING CREDIT AMOUNT FOR PURPOSES OF 2009 GRANT ELECTION.—Subsection (b) of section 1602 of the American Recovery and Reinvestment Tax Act of 2009, as amended by subsection (a), is amended by adding at the end the following flush sentence:

''For purposes of paragraph (1)(B), in the case of any area to which section 702(d)(2) or 704(b) of the Tax Extenders and Alternative Minimum Tax Relief Act of 2008 applies, section 1400N(c)(1)(A) of such Code shall be applied without regard to clause (i).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply as if included in the enactment of section 1602 of the American Recovery and Reinvestment Tax Act of 2009.

SA 4354. Mr. INOUYE submitted an amendment intended to be proposed to amendent SA 4301 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; wich was ordered to lie on the table; as follows:

At the end of title VI, insert the following:

SEC. —. MODIFICATION OF THE APPLICATION OF THE TONNAGE TAX ON VESSELS OPERATING IN THE DUAL UNITED STATES DOMESTIC AND FOREIGN TRADES.

(a) IN GENERAL.—Subsection (f) of section 1355 of the Internal Revenue Code of 1986 (relating to definitions and special rules) is amended to read as follows:

''(f) EFFECT OF OPERATING A QUALIFYING VESSEL IN THE DUAL UNITED STATES DOMESTIC AND FOREIGN TRADES.—For purposes of this subchapter—

''(1) an electing corporation shall be treated as continuing to use a qualifying vessel in the United States foreign trade during any period of use in the United States domestic trade, and

''(2) gross income from such United States domestic trade shall not be excluded under section 1357(a), but shall not be taken into account for purposes of section 1353(b)(1)(B) or for purposes of section 1356 in connection with the application of section 1357 or 1358.''.

(b) REGULATORY AUTHORITY FOR ALLOCATION OF CREDITS, INCOME, AND DEDUCTIONS.—Section 1358 of the Internal Revenue Code of 1986 (relating to allocation of credits, income, and deductions) is amended—

(1) by striking ''in accordance with this subsection'' in subsection (c) and inserting ''to the extent provided in such regulations as may be prescribed by the Secretary'', and

(2) by adding at the end the following new subsection:

''(d) REGULATIONS.—The Secretary shall prescribe regulations consistent with the provisions of this subchapter for the purpose of allocating gross income, deductions, and credits between or among qualifying shipping activities and other activities of a taxpayer.''.

(c) CONFORMING AMENDMENTS.—

(1) Section 1355(a)(4) of the Internal Revenue Code of 1986 is amended by striking ''exclusively''.

(2) Section 1355(b)(1)(B) of such Code is amended by striking ''as a qualifying vessel'' and inserting ''in the transportation of goods or passengers''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SA 4355. Ms. CANTWELL (for herself, Mr. VITTER, Mrs. MURRAY, Ms. STABENOW, and Mr. INOUYE) submitted an amendment intended to be proposed to amendent SA 4301 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; wich was ordered to lie on the table; as follows:

At the end of title VI, insert the following:

SEC. —. REPEAL OF QUALIFIED SHIPPING INVESTMENT WITHDRAWAL RULES.

(a) IN GENERAL.—Section 955 is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1) Section 951(a)(1)(A) is amended by adding ''and'' at the end of clause (i) and by striking clause (iii).

(2) Section 951(a)(1)(A)(ii) is amended by striking '', and'' at the end and inserting '', except that in applying this clause amounts invested in less developed country corporations described in section 955(c)(2) (as so in effect) shall not be treated as investments in less developed countries.''.

(3) Section 951(a)(3) is hereby repealed.

(4) Section 964(b) of such Code is amended by striking '', 955,''.

(5) The table of sections for subpart F of part III of subchapter N of chapter 1 is amended by striking the item relating to section 955.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of controlled foreign corporations ending on or after the date of the enactment of this Act, and to taxable years of United States shareholders in which or with which such taxable years of controlled foreign corporations end.

SEC. —. TAX IMPOSED ON ELECTING UNITED STATES SHAREHOLDERS.

(a) IN GENERAL.—In the case of a United States shareholder for which an election is in effect under this section, a tax is hereby imposed on such shareholder's pro rata share (determined under the principles of paragraph (2) of subsection (a) of section 951 of the Internal Revenue Code of 1986) of the sum of—

(1) the foreign base company shipping income (determined under section 954(f) of the Internal Revenue Code of 1986 as in effect before the enactment of the American Jobs Creation Act of 2004) for all prior taxable years beginning after 1975 and before 1987, and

(2) income described in section 954(b)(2) of the Internal Revenue Code as in effect prior to the effective date of the Tax Reform Act of 1975, without regard to whether such income was not included in subpart F income under section 954(b)(2) or any other provision of such Code,

but only to the extent such income has not previously been included in the gross income of a United States person as a dividend or under any section of the Internal Revenue Code after 1962, or excluded from gross income pursuant to subsection (a) of section 959 of the Internal Revenue Code of 1986.

(b) AMOUNT OF TAX.—The amount of tax imposed by subsection (a) shall be 5.25 percent of the income described therein.

(c) INCOME NOT SUBJECT TO FURTHER TAX.—The income on which a tax is imposed by subsection (a) shall not (other than such tax) be included in the gross income of such United States shareholder (or any other United States person who acquires from any person any portion of the interest of such United States shareholder in such foreign corporation) and shall be treated for purposes of the Internal Revenue Code of 1986 as if such amounts are, or have been, included in the income of the United States shareholder under section 951(a)(1)(B).

(d) ADDITIONAL TAX IMPOSED FOR FAILURE TO MAINTAIN EMPLOYMENT LEVELS.—

(1) IN GENERAL.—If, during the period consisting of the calendar month in which the election under this section is made and the succeeding 23 calendar months, the taxpayer does not maintain an average employment level at least equal to the taxpayer's prior average employment, an additional amount shall be taken into account as income by the taxpayer during the taxable year that includes the final day of such period, equal to $25,000 multiplied by the number of employees by which the taxpayer's average employment level during such period falls below the prior average employment.

(2) PRIOR AVERAGE EMPLOYMENT.—For purposes of this subsection, the taxpayer's prior average employment is the average number of full time equivalent employees of the taxpayer during the period consisting of the 24 calendar months immediately preceding the calendar month in which the election under this section is made.

(3) AGGREGATION RULES.—In determining the taxpayer's average employment level and prior average employment, all domestic members of a controlled group (as defined in section 264(e)(5)(B) of the Internal Revenue Code of 1986) shall be treated as a single taxpayer.

(e) ELECTION.—

(1) IN GENERAL.—A taxpayer may elect to apply this section to—

(A) the taxpayer's last taxable year which begins before the date of the enactment of this Act, or

(B) the taxpayer's first taxable year beginning on or after such date.

(2) TIMING OF ELECTION AND ONE-TIME ELECTION.—Such election may be made only once by any taxpayer, and only if made on or before the due date (including extensions) for filing the return of tax for the taxable year of such election.

(f) EFFECTIVE DATE.—This section shall apply to taxable years ending on or after the date of the enactment of this Act.

SA 4356. Mr. BUNNING (for himself and Mr. ROCKEFELLER) submitted an amendment intended to be proposed to amendent SA 4301 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; wich was ordered to lie on the table; as follows:

On page 23, line 25, insert ''(E),'' after ''(C),''.

SA 4357. Mr. BOND submitted an amendment intended to be proposed to amendment SA 4301 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 170, line 6, strike all through page 225, line 4, and insert the following:

SEC. 401. USE OF STIMULUS FUNDS TO OFFSET SPENDING.

The unobligated balance of each amount appropriated or made available under the American Recovery and Reinvestment Act of 2009 (Public Law 111–5) (other than under title X of division A of such Act) is rescinded such that the aggregate amount of such rescissions equal $39,860,000,000 in order to offset the net increase in spending resulting from the provisions of, and amendments made by, this Act. The Director of the Office of Management and Budget shall report to each congressional committee the amounts so rescinded within the jurisdiction of such committee.

SA 4358. Mr. HATCH submitted an amendment intended to be proposed to amendment SA 4301 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title V, insert the following:

Subtitle C—Drug Testing and Treatment Programs

SEC. —. DRUG TESTING AND TREATMENT PROGRAM FOR APPLICANTS FOR STATE TANF PROGRAMS.

(a) STATE PLAN REQUIREMENT OF DRUG TESTING AND TREATMENT PROGRAM.—Section 402(a) of the Social Security Act (42 U.S.C. 602(a)) is amended by adding at the end the following new paragraph:

''(8) CERTIFICATION THAT THE STATE WILL OPERATE AN ILLEGAL DRUG USE TESTING AND TREATMENT PROGRAM.—

''(A) IN GENERAL.—A certification by the chief executive officer of the State that the State will operate a program to test all new applicants for assistance under the State program funded under this part for the use of illegal drugs (as defined in section 408(a)(12)(D)(i)), and (except as provided in subparagraph (B)) to deny assistance under such State program to individuals who test positive for illegal drug use, as required by such section.

''(B) ASSISTANCE AND REPEAT TESTING.—The program described in subparagraph (A) shall include a plan to make all reasonable effort to provide individuals who test positive for illegal drug use with services under State or federally funded drug treatment programs, and to allow individuals who test positive at the first test to repeat the drug test after 60 days upon request by the individual. If such an individual tests negative for illegal drug use at the second test, the State may provide assistance to such individual under the State program funded under this part.''.

(b) REQUIREMENT THAT APPLICANTS BE TESTED FOR ILLEGAL DRUG USE.—Section 408(a) of the Social Security Act (42 U.S.C. 608(a)) is amended by adding at the end the following new paragraph:

''(12) REQUIREMENT FOR DRUG TESTING.—

''(A) IN GENERAL.—A State to which a grant is made under section 403 shall not use any part of the grant to provide assistance to any individual who applies for assistance on or after the effective date of the American Jobs and Closing Tax Loopholes Act of 2010, who has not been tested for illegal drug use under the program required under section 402(a)(8).

''(B) DENIAL OF ASSISTANCE FOR INDIVIDUALS WHO TEST POSITIVE FOR ILLEGAL DRUG USE.—In the case of an individual who tests positive for illegal drug use under the program described in subparagraph (A), the State shall not provide assistance to the individual under the State program funded under this part except as provided in section 402(a)(8)(B).

''(C) LIMITATION ON WAIVER AUTHORITY.—The Secretary may not waive the provisions of this paragraph under section 1115.

''(D) ILLEGAL DRUG.—For purposes of this paragraph, the term 'illegal drug' means a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the 1st day of the 1st calendar quarter that begins on or after the date of the enactment of this Act.

SEC. —. DRUG TESTING AND TREATMENT PROGRAM FOR APPLICANTS FOR UNEMPLOYMENT COMPENSATION.

(a) IN GENERAL.—Section 3304(a) of the Internal Revenue Code of 1986 (relating to approval of State unemployment compensation laws) is amended—

(1) in paragraph (18), by striking ''and'' at the end;

(2) by redesignating paragraph (19) as paragraph (20); and

(3) by inserting after paragraph (18) the following new paragraph:

''(19) the State—

''(A) is required to operate a program to test all new applicants for unemployment compensation for the use of illegal drugs (as defined in section 408(a)(12)(D) of the Social Security Act);

''(B) makes all reasonable efforts to provide individuals who test positive for illegal drug use with services under State or federally funded drug treatment programs;

''(C) allows individuals who test positive at the first test to repeat the drug test after 60 days upon request by the individual;

''(D) denies unemployment compensation to individuals who test positive for illegal drug use or who have not been tested for illegal drug use under the program (except that in the case of an individual who tests positive for illegal drug use at the first test, compensation shall not be denied based on such test if the individual tests negative for illegal drug use at the second test under subparagraph (C); and''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the 1st day of the 1st calendar quarter that begins on or after the date of the enactment of this Act.

SEC. —. REDUCTION OF HHS DISCRETIONARY FUNDING AND APPROPRIATION OF FUNDS.

(a) IN GENERAL.—The budget authority provided for each discretionary account within the Department of Health and Human Services shall be reduced for fiscal year 2010 and each fiscal year thereafter by such account's pro rata share of the amount equal to the aggregate State administrative cost amounts for the fiscal year.

(b) APPROPRIATION OF FUNDS.—For each fiscal year beginning with fiscal year 2010, an amount equal to the total amount of the budget authority reduction required under subsection (a) for such fiscal year is appropriated, and shall be transferred to the States, for the purpose of implementing the Federal benefit drug testing requirements in such fiscal year. The amount transferred to each State for a fiscal year shall be equal to the State administrative cost amount with respect to such State for such year.

(c) STATE ADMINISTRATIVE COST AMOUNT.—For purposes of this section, the State administrative cost amount is, with respect to each State and a fiscal year, the cost the State will incur to implement the Federal benefit drug testing requirements during the fiscal year, as estimated and reported by the State to the Secretary of the Treasury.

(d) FEDERAL BENEFIT DRUG TESTING REQUIREMENTS.—For purposes of this section, the term ''Federal benefit drug testing requirements'' means the requirements imposed by sections 402(a)(8) and 408(a)(12) of the Social Security Act (42 U.S.C. 602(a)(8) and 608(a)(12), respectively), and section 3304(a)(19) of the Internal Revenue Code of 1986.

SA 4359. Mr. PRYOR (for himself, Mr. COCHRAN, and Mrs. LINCOLN) submitted an amendment intended to be proposed to amendment SA 4301 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

On page 363, between lines 3 and 4, insert the following:

SEC. 621. FLOOD MAPPING.

No revised, updated, or newly published flood insurance rate map issued on or after September 30, 2008, pursuant to the Flood Map Modernization Program authorized under section 1360 of the National Flood Insurance Act of 1968 (42 U.S.C. 4101) shall take effect until such time as all of the following requirements are satisfied:

(1) ESTABLISHMENT AND IMPLEMENTATION OF A BASE FLOOD ELEVATION DETERMINATION AND SPECIAL FLOOD HAZARD AREA DETERMINATION ARBITRATION PANEL.—

(A) ESTABLISHMENT.—As allowed under section 1307(e) of the National Flood Insurance Act of 1968 (42 U.S.C. 4104), and notwithstanding any other provision of law, not later than 90 days after the date of enactment of this section, the Administrator of the Federal Emergency Management Agency shall establish an arbitration panel—

(i) to efficiently and clearly resolve disputes between communities and the Federal Government regarding the Flood Map Modernization Program; and

(ii) to expedite the general acceptance of technically accurate base flood elevation determinations as reflected in Flood Insurance Rate Maps.

(B) ARBITRATION PANEL.—

(i) MEMBERSHIP.—The arbitration panel established under subparagraph (A) shall be comprised of 5 members.

(ii) ARMY CORPS OF ENGINEERS.—The United States Army Corps of Engineers shall compile a list of eligible experts to serve on the arbitration panel established under subparagraph (A). The community who has sought to have a dispute resolved by the arbitration panel shall select a majority of the panelists from such list. After a community has made its selections, the Administrator shall select the remaining members of the arbitration panel from such list.

(iii) NO FEMA EMPLOYEES.—No member of the arbitration panel established under subparagraph (A) shall be an employee of the Federal Emergency Management Agency.

(iv) INDEPENDENCE.—Each member of the arbitration panel established under subparagraph (A) shall be independent and neutral.

(v) USE OF.—A community may choose to have a dispute resolved by the arbitration

panel not later than 90 days after it has exhausted any applicable appeals period available under the National Flood Insurance Act.

(C) CONSIDERATIONS.—

(i) IN GENERAL.—The arbitration panel established under subparagraph (A) may consider historical flood data and other data outside the scope of scientific or technical data in carrying out the duties and responsibilities of the arbitration panel.

(ii) COORDINATION WITH CORPS OF ENGINEERS.—Upon request by the arbitration panel, the appropriate district office of jurisdiction of the United States Army Corps of Engineers shall fund and make available personnel or technical guidance to assist the arbitration panel in considering hydrological data, historical data, budgetary data, or other relevant information.

(D) COMMUNITY CHOICE.—A community may choose to have a dispute resolved by the arbitration panel only if the community has satisfied the following conditions:

(i) The community has appealed a base flood elevation determination or a determination of an area having special flood hazards and undergone a 60-day consultation period with the Administrator of the Federal Emergency Management Agency in an effort to resolve the dispute.

(ii) The 60-day consultation period described in clause (i) shall begin upon the Administrator's receipt of notice of intent of the community to enter arbitration.

(iii) In cases in which the appeal period described under clause (i) begins a sufficient time after the date of enactment of this section, the community has adequately notified the public 180 days prior to the beginning of the appeal period regarding the changes proposed by the Administrator. Such notification may include individual notification of affected households, public meetings, or publication of proposed changes in local media.

(E) BINDING AUTHORITY.—

(i) IN GENERAL.—Any determination of resolution of a dispute by the arbitration panel under this paragraph—

(I) shall be final and binding; and

(II) may not appeal or seek further relief for such dispute to any other administrative or judicial body.

(ii) PROCEEDINGS.—

(I) IN GENERAL.—The arbitration panel shall—

(aa) initiate proceedings to resolve any disputes brought before the arbitration panel;

(bb) consider all relevant information during the course of any such proceeding; and

(cc) issue a determination of resolution of the dispute, within a 150 days after the initiation of such proceeding.

(II) EFFECT PRIOR TO DETERMINATION.—Until such time as the arbitration panel issues a determination of resolution under subclause (I), the most current Flood Insurance Rate Maps shall remain in effect.

(iii) APPEAL DETERMINATION.—Following deliberations, the arbitration panel shall issue an appeal determination of resolution of a dispute setting forth the base flood elevation determination or the determination of an area having special flood hazards that shall be reflected in the Flood Insurance Rate Maps. The appeal determination of the arbitration panel shall not be limited to either acceptance or denial of the position of Administrator of the Federal Emergency Management Agency or the position of the community.

(iv) WRITTEN OPINION.—Accompanying any appeal determination of resolution issued pursuant to clause (iii), the arbitration panel shall issue a written opinion fully explaining its decision, including all relevant information relied upon by the panel. The opinion issued under this paragraph shall provide communities seeking to mitigate their flood risk with available information to make informed future planning decisions in light of identified flood hazards.

(F) RULE OF CONSTRUCTION.—Nothing contained in this paragraph shall alter existing procedures for revision, update, or amendment of Flood Insurance Rate Maps, including Flood Insurance Rate Maps resulting from decisions of the arbitration panel.

(2) INDEPENDENT REVIEW AND ASSESSMENT OF FLOOD MAP MODERNIZATION PROGRAM.—

(A) INDEPENDENT REVIEW AND ASSESSMENT REQUIRED.—The Administrator of the Federal Emergency Management Agency shall select an appropriate entity outside the Federal Emergency Management Agency to conduct an independent review and assessment of the Flood Map Modernization Program established under section 1360 of the National Flood Insurance Act of 1968 (42 U.S.C. 4101).

(B) ELEMENTS.—The review and assessment required by this paragraph shall address the following:

(i) The engineering analysis used to prepare revised and updated Flood Insurance Rate Maps, including any engineering analysis related to determination of floodplain areas and flood-risk zones.

(ii) The definition of the term floodplain, area of special flood hazard, and other flood-related terms used by the Administrator of the Federal Emergency Management Agency in preparing revised and updated Flood Insurance Rate Maps.

(iii) Any watershed or water flow modeling, and other technical data used by the Administrator of the Federal Emergency Management Agency in preparing revised and updated Flood Insurance Rate Maps.

(C) CONSULTATION.—The entity selected by the Administrator of the Federal Emergency Management Agency to conduct the review and assessment required by this paragraph shall, in carrying out the elements required under subparagraph (B), consult with the General Accountability Office, the Army Corps of Engineers, the United States Geological Survey, the National Oceanic and Atmospheric Administration, and affected communities and their congressional representatives, as applicable.

(D) REPORT.—Not later than 9 months after the date of the enactment of this section, the entity conducting the review and assessment under this paragraph shall submit to the Administrator and the Congress a report containing the results of the review and assessment.

SEC. 622. BASE FLOOD ELEVATION DETERMINATION APPEAL PERIOD.

(a) IN GENERAL.—Notwithstanding any other provision of law, the appeal period for any base flood elevation determination or any determination of an area having special flood hazards shall be 90 days unless an extended appeal period is requested by a party affected by such determination, in which case the appeal period shall be 120 days.

(b) REENTRY OF APPEALS.—Effective for the 90-day period beginning on the date of enactment of this section, any community whose Flood Insurance Rate Maps were revised, updated, or otherwise altered after September 30, 2008, pursuant to the Flood Map Modernization Program established under section 1360 of the National Flood Insurance Act of 1968 (42 U.S.C. 4101) shall be permitted to re-enter an appeal of such revision, update, or alteration and such appeal shall be subject to the time limitations established under subsection (a).

SEC. 623. DESIGNATION OF ECONOMIC IMPACT FOR PRELIMINARY BASE FLOOD ELEVATION DETERMINATIONS AND PRELIMINARY FLOOD INSURANCE RATE MAPS.

For purposes of section 605(b) of title 5, United States Code, the issuance by the Administrator of the Federal Emergency Management Agency of a proposed modified base flood elevation, proposed area having special flood hazards, preliminary flood insurance study, or preliminary Flood Insurance Rate Maps shall be deemed to have a significant economic impact on a substantial number of small entities.

SEC. 624. ELIGIBILITY FOR CERTAIN REIMBURSEMENTS FOR COMMUNITIES PARTICIPATING IN ARBITRATION.

For communities who enter arbitration pursuant to paragraph (1) of section 621, the Administrator may make available funds derived from offsetting collections assessed and collected under section 1308(d) of the National Flood Insurance Act of 1968 (42 U.S.C. 4015(d)) to reimburse 50 percent of certain expenses incurred by communities related to successful appeals of the Flood Insurance Rate Maps that are the subject of a dispute for which the arbitration panel established under section 621 has been directed to resolve, as allowed for pursuant to section 1307(f) of the National Flood Insurance Act of 1968 (42 U.S.C. 4104(f)), if the community has not received a grant from or served as a cooperative technical partner with the Federal Emergency Management Agency in carrying out the study required pursuant to such section.

SEC. 625. 5-YEAR PHASE-IN OF CERTAIN PREMIUM COSTS.

Section 1308 of the National Flood Insurance Act of 1968 (42 U.S.C. 4015) is amended—

(1) in subsection (c), by inserting ''and subsection (g)'' before the first comma; and

(2) by adding at the end the following new subsection:

''(g) 5-YEAR PHASE-IN OF PREMIUM ADJUSTMENT TO REFLECT CURRENT RISK OF FLOOD.—Any increase or newly applicable risk premium rate charged for flood insurance on any property that is required to be covered by a flood insurance policy as a result of the updating or remapping required pursuant to section 1360 shall be phased in over a 5-year period as follows:

''(1) For the first year of such 5-year period, 20 percent of the chargeable risk premium rate otherwise applicable under this title to the property.

''(2) For the second year of such 5-year period, 40 percent of the chargeable risk premium rate otherwise applicable under this title to the property.

''(3) For the third year of such 5-year period, 60 percent of the chargeable risk premium rate otherwise applicable under this title to the property.

''(4) For the fourth year of such 5-year period, 80 percent of the chargeable risk premium rate otherwise applicable under this title to the property.

''(5) For the fifth year of such 5-year period, 100 percent of the chargeable risk premium rate otherwise applicable under this title to the property.''.

SA 4360. Mr. FEINGOLD submitted an amendment intended to be proposed to amendment SA 4301 proposed by Mr. BAUCUS to the bill H.R. 4213 to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes, which was ordered to lie on the table; as follows:

On page 296, after line 23, add the following:

(d) COORDINATION WITH DEPARTMENT OF AGRICULTURE.—Section 7 of the Small Business Act (15 U.S.C. 636) is amended by adding at the end the following:

''(o) COORDINATION WITH DEPARTMENT OF AGRICULTURE.—

''(1) IN GENERAL.—In coordination with the Administrator of the Farm Service Agency,

the Under Secretary for Rural Development, and the head of any other appropriate Federal agency, the Administrator shall conduct outreach and provide technical assistance to farmers and other rural businesses with regard to programs of the Administration for which the farmers and rural businesses may be eligible.

''(2) AGREEMENT.—The coordination under this subsection shall include evaluating whether the Administrator should enter an agreement under which—

''(A) offices of the Department of Agriculture may assist in completing and accept applications for programs of the Administration; or

''(B) employees of the Administration periodically have office hours at offices of the Department of Agriculture.''.

SA 4361. Mr. NELSON of Florida submitted an amendment intended to be proposed to amendment SA 4301 proposed by Mr. BAUCUS to the bill H.R. 4213 to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes, which was ordered to lie on the table; as follows:

On page 363, between lines 3 and 4, insert the following:

SEC. 621. EXCLUSIVITY PERIOD.

(a) FIRST APPLICANT.—Section 505(j)(5) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(5)) is amended—

(1) in subparagraph (B)(iv)—

(A) in subclause (II), by striking item (bb) and inserting the following:

''(bb) FIRST APPLICANT.—As used in this subsection, the term 'first applicant' means—

''(AA) an applicant that, on the first day on which a substantially complete application containing a certification described in paragraph (2)(A)(vii)(IV) is submitted for approval of a drug, submits a substantially complete application that contains and lawfully maintains a certification described in paragraph (2)(A)(vii)(IV) for the drug; or

''(BB) an applicant for the drug not described in item (AA) that satisfies the requirements of subclause (III).''; and

(B) by adding at the end the following:

''(III) An applicant described in subclause (II)(bb)(BB) shall—

''(aa) submit and lawfully maintain a certification described in paragraph (2)(A)(vii)(IV) or a statement described in paragraph (2)(A)(viii) for each unexpired patent for which a first applicant described in item (AA) had submitted a certification described in paragraph (2)(A)(vii)(IV) on the first day on which a substantially complete application containing such a certification was submitted;

''(bb) with regard to each such unexpired patent for which the applicant submitted a certification described in paragraph (2)(A)(vii)(IV), no action for patent infringement was brought against the applicant within the 45-day period specified in paragraph (5)(B)(iii), or if an action was brought within such time period, the applicant has obtained the decision of a court (including a district court) that the patent is invalid or not infringed (including any substantive determination that there is no cause of action for patent infringement or invalidity, and including a settlement order or consent decree signed and entered by the court stating that the patent is invalid or not infringed); and

''(cc) but for the effective date of approval provisions in subparagraphs (B) and (F) and sections 505A and 527, be eligible to receive immediately effective approval at a time before any other applicant has begun commercial marketing.''; and

(2) in subparagraph (D)—

(A) in clause (i)(IV), by striking ''The first applicant'' and inserting ''The first applicant, as defined in subparagraph (B)(iv)(II)(bb)(AA),''; and

(B) in clause (iii), in the matter preceding subclause (I)—

(i) by striking ''If all first applicants forfeit the 180-day exclusivity period under clause (ii)''; and

(ii) by inserting ''If all first applicants, as defined in subparagraph (B)(iv)(II)(bb)(AA), forfeit the 180-day exclusivity period under clause (ii) at a time at which no applicant has begun commercial marketing''.

(b) EFFECTIVE DATE AND TRANSITIONAL PROVISION.—

(1) EFFECTIVE DATE.—The amendments made by subsection (a) shall be effective only with respect to an application filed under section 505(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)) to which the amendments made by section 1102(a) of the Medicare Prescription Drug Improvement and Modernization Act of 2003 (Public Law 108–173) apply.

(2) TRANSITIONAL PROVISION.—An application filed under section 505(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)), to which the 180-day exclusivity period described in paragraph (5)(iv) of such section does not apply, and that contains a certification under paragraph (2)(A)(vii)(IV) of such Act, shall be regarded as a previous application containing such a certification within the meaning of section 505(j)(5)(B)(iv) of such Act (as in effect before the amendments made by Medicare Prescription Drug Improvement and Modernization Act of 2003 (Public Law 108–173)) if—

(A) no action for infringement of the patent that is the subject of such certification was brought against the applicant within the 45-day period specified in section 505(j)(5)(B)(iii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(5)(B)(iii)), or if an action was brought within such time period, the applicant has obtained the decision of a court (including a district court) that the patent is invalid or not infringed (including any substantive determination that there is no cause of action for patent infringement or invalidity, and including a settlement order or consent decree signed and entered by the court stating that the patent is invalid or not infringed);

(B) the application is eligible to receive immediately effective approval, but for the effective date of approval provisions in sections 505(j)(5)(B) (as in effect before the amendment made by Public Law 108–173), 505(j)(5)(F), 505A, and 527 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(5)(B), 355(j)(5)(F), 355a, 360cc); and

(C) no other applicant has begun commercial marketing.

SA 4362. Mr. LEVIN (for himself, Mr. KAUFMAN, Mr. NELSON of Florida, Mrs. SHAHEEN, Mrs. MCCASKILL, Mr. WHITEHOUSE, and Mr. REED) submitted an amendment intended to be proposed to amendment SA 4301 proposed by Mr. BAUCUS to the bill H.R. 4213 to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes, which was ordered to lie on the table; as follows:

At the end of the amendment, insert the following:

TITLE ____—AUTHORIZING SPECIAL MEASURES FOR JURISDICTIONS, FINANCIAL INSTITUTIONS, INTERNATIONAL TRANSACTIONS, OR TYPES OF ACCOUNTS THAT ARE OF PRIMARY MONEY LAUNDERING CONCERN OR IMPEDE UNITED STATES TAX ENFORCEMENT

SEC. ____. AUTHORIZING SPECIAL MEASURES FOR JURISDICTIONS, FINANCIAL INSTITUTIONS, INTERNATIONAL TRANSACTIONS, OR TYPES OF ACCOUNTS THAT ARE OF PRIMARY MONEY LAUNDERING CONCERN OR IMPEDE UNITED STATES TAX ENFORCEMENT.

Section 5318A of title 31, United States Code, is amended—

(1) by striking the section heading and inserting the following:

''§ 5318A. Special measures for jurisdictions, financial institutions, or international transactions that are of primary money laundering concern or impede United States tax enforcement'';

(2) in subsection (a), by striking the subsection heading and inserting the following:

''(a) SPECIAL MEASURES TO COUNTER MONEY LAUNDERING AND EFFORTS TO IMPEDE UNITED STATES TAX ENFORCEMENT.—'';

(3) in subsection (c), by striking the subsection heading and inserting the following:

''(c) CONSULTATIONS AND INFORMATION TO BE CONSIDERED IN FINDING JURISDICTIONS, INSTITUTIONS, TYPES OF ACCOUNTS, OR TRANSACTIONS TO BE OF PRIMARY MONEY LAUNDERING CONCERN OR TO BE IMPEDING UNITED STATES TAX ENFORCEMENT.—'';

(4) in subsection (a)(1), by inserting ''or is impeding United States tax enforcement'' after ''primary money laundering concern'';

(5) in subsection (a)(4)—

(A) in subparagraph (A)—

(i) by inserting ''in matters involving money laundering,'' before ''shall consult''; and

(ii) by striking ''and'' at the end;

(B) by redesignating subparagraph (B) as subparagraph (C); and

(C) by inserting after subparagraph (A) the following:

''(B) in matters involving United States tax enforcement, shall consult with the Commissioner of the Internal Revenue, the Secretary of State, the Attorney General of the United States, and in the sole discretion of the Secretary, such other agencies and interested parties as the Secretary may find to be appropriate; and'';

(6) in each of paragraphs (1)(A), (2), (3), and (4) of subsection (b), by inserting ''or to be impeding United States tax enforcement'' after ''primary money laundering concern'' each place that term appears;

(7) in subsection (b), by striking paragraph (5) and inserting the following:

''(5) PROHIBITIONS OR CONDITIONS ON OPENING OR MAINTAINING CERTAIN CORRESPONDENT OR PAYABLE-THROUGH ACCOUNTS OR AUTHORIZING CERTAIN PAYMENT CARDS.—If the Secretary finds a jurisdiction outside of the United States, 1 or more financial institutions operating outside of the United States, or 1 or more classes of transactions within or involving a jurisdiction outside of the United States to be of primary money laundering concern or to be impeding United States tax enforcement, the Secretary, in consultation with the Secretary of State, the Attorney General of the United States, and the Chairman of the Board of Governors of the Federal Reserve System, may prohibit, or impose conditions upon—

''(A) the opening or maintaining in the United States of a correspondent account or payable-through account; or

''(B) the authorization, approval, or use in the United States of a credit card, charge

card, debit card, or similar credit or debit financial instrument by any domestic financial institution, financial agency, or credit card company or association, for or on behalf of a foreign banking institution, if such correspondent account, payable-through account, credit card, charge card, debit card, or similar credit or debit financial instrument, involves any such jurisdiction or institution, or if any such transaction may be conducted through such correspondent account, payable-through account, credit card, charge card, debit card, or similar credit or debit financial instrument.''; and

(8) in subsection (c)(1), by inserting ''or is impeding United States tax enforcement'' after ''primary money laundering concern'';

(9) in subsection (c)(2)(A)—

(A) in clause (ii), by striking ''bank secrecy or special regulatory advantages'' and inserting ''bank, tax, corporate, trust, or financial secrecy or regulatory advantages'';

(B) in clause (iii), by striking ''supervisory and counter-money'' and inserting ''supervisory, international tax enforcement, and counter-money'';

(C) in clause (v), by striking ''banking or secrecy'' and inserting ''banking, tax, or secrecy''; and

(D) in clause (vi), by inserting '', tax treaty, or tax information exchange agreement'' after ''treaty'';

(10) in subsection (c)(2)(B)—

(A) in clause (i), by inserting ''or tax evasion'' after ''money laundering''; and

(B) in clause (iii), by inserting '', tax evasion,'' after ''money laundering''; and

(11) in subsection (d), by inserting ''involving money laundering, and shall notify, in writing, the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives of any such action involving United States tax enforcement'' after ''such action''.

SA 4363. Ms. CANTWELL (for herself, Mr. LEMIEUX, Mrs. FEINSTEIN, Ms. STABENOW, Mr. MERKLEY, Mr. NELSON of Nebraska, and Mr. MENENDEZ) submitted an amendment intended to be proposed to amendment SA 4301 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle A of title II, insert the following:

SEC. 2___. EXTENSION AND EXPANSION OF GRANTS FOR SPECIFIED ENERGY PROPERTY IN LIEU OF TAX CREDITS.

(a) EXTENSION.—

(1) IN GENERAL.—Subsection (a) of section 1603 of division B of the American Recovery and Reinvestment Act of 2009 is amended—

(A) in paragraph (1), by striking ''2009 or 2010'' and inserting ''2009, 2010, 2011, or 2012'', and

(B) in paragraph (2)—

(i) by striking ''after 2010'' and inserting ''after 2012'', and

(ii) by striking ''2009 or 2010'' and inserting ''2009, 2010, 2011, or 2012''.

(2) CONFORMING AMENDMENT.—Subsection (j) of section 1603 of division B of such Act is amended by striking ''2011'' and inserting ''2013''.

(b) EXPANSION OF GRANTS TO CERTAIN GOVERNMENTAL UNITS AND CO-OPERATIVE ELECTRIC COMPANIES.—

(1) IN GENERAL.—

(A) EXPANSION.—Section 1603(g) of division B of the American Recovery and Reinvestment Act of 2009 is amended—

(i) in paragraph (1), by inserting ''other than a governmental unit which is a State utility with a service obligation (as such terms are defined in section 217 of the Federal Power Act)'' after ''thereof),'',

(ii) in paragraph (2), by inserting ''other than a mutual or cooperative electric company described in section 501(c)(12) of such Code'' after ''such Code'', and

(iii) by striking paragraph (3) and redesignating paragraph (4) as paragraph (3).

(B) CONFORMING AMENDMENT.—Paragraph (3) of section 1603(g) of division B of such Act, as redesignated by subparagraph (A)(iii), is amended by striking ''paragraph (1), (2), or (3)'' and inserting ''paragraph (1) or (2)''.

(2) SPECIAL RULE WITH RESPECT TO POWER MARKETING ADMINISTRATIONS AND TVA.—Section 1603 of division B of such Act, as amended by subsection (a), is amended by redesignating subsections (h), (i), and (j) as subsections (i), (j), and (k), respectively, and by inserting after subsection (g) the following new subsection:

''(h) CERTAIN PERSONS DEEMED ELIGIBLE.—Notwithstanding any other provision of this section—

''(1) the Tennessee Valley Authority shall be eligible for a grant under this subsection, and

''(2) no person shall be considered to be ineligible for a grant under this section on the basis that such person has a contract or other business arrangement relating to the specified energy property with a power marketing administration (within the meaning of section 2605(a)(2) of the Energy Policy Act of 1992) or the Tennessee Valley Authority, including any contract to sell or assign the rights to the output from such specified energy property or any other contract or business arrangement under which the specified energy property is considered to be used by the power marketing administration or the Tennessee Valley Authority.''.

(c) NO GRANTS FOR PROPERTY FOR WHICH CREBS HAVE BEEN ISSUED.—Section 1603 of division B of such Act, as amended by this section, is amended by redesignating subsections (h), (i), (j), and (k) as subsections (i), (j), (k) and (l), respectively, and by inserting after subsection (g) the following new subsection:

''(h) EXCEPTION FOR CERTAIN PROJECTS.—The Secretary of the Treasury shall not make any grant under this section to any governmental unit or cooperative electric company (as defined in section 54(j)(1)) with respect to any specified energy property described in subsection (d)(1) if such entity has issued any bond—

''(1) which is designated as a clean renewable energy bond under section 54 of the Internal Revenue Code of 1986 or as a new clean renewable energy bond under section 54C of such Code, and

''(2) the proceeds of which are used for expenditures in connection with the same qualified facility with respect to which such specified energy property is a part.''.

(d) TREATMENT OF GRANTS FOR COOPERATIVE ELECTRIC COMPANIES.—Section 501(c)(12) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraph:

''(I) In the case of a mutual or cooperative electric company described in this paragraph or an organization described in section 1381(a)(2)(C), subparagraph (A) shall be applied without taking into account any grant received under section 1603 of division B of the American Recovery and Reinvestment Act of 2009.''.

(e) APPLICATION OF GRANTS FOR SPECIFIED ENERGY PROPERTY TO CERTAIN REGULATED COMPANIES.—The first sentence of section 1603(f) of division B of the American Recovery and Reinvestment Act of 2009 is amended by inserting ''(other than paragraph (2) of subsection (d) thereof)'' after ''section 50 of the Internal Revenue Code of 1986''.

(f) APPLICATION OF GRANTS TO REITS.—The first sentence of section 1603(f) of division B of the American Recovery and Reinvestment Act of 2009, as amended by subsection (e), is amended by striking ''paragraph (2)'' and inserting ''paragraphs (1) and (2)''.

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

(2) APPLICATION TO CERTAIN REGULATED COMPANIES.—The amendment made by subsections (b)(1), (d), and (e) shall take effect as if included in section 1603 of division B the American Recovery and Reinvestment Act of 2009.

SEC. 2___. TAXES ATTRIBUTABLE TO OIL SPILL LIABILITY TRUST FUND FINANCING RATE NOT DEDUCTIBLE FOR CERTAIN TAXPAYERS.

(a) IN GENERAL.—Section 275 is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

''(b) TAXES ON PETROLEUM PAID BY CERTAIN TAXPAYERS.—

''(1) IN GENERAL.—In the case of any taxpayer who is a disqualified taxpayer for a taxable year, no deduction shall be allowed for such taxable year for so much of the taxes imposed under section 4611 as are attributable to the Oil Spill Liability trust Fund financing rate determined under section 4611(c)(2)(B).

''(2) DISQUALIFIED TAXPAYER.—For purposes of this subsection, the term 'disqualified taxpayer' means, with respect to any taxable year, any taxpayer who has gross revenues in excess of $100,000,000 for such taxable year.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxes on crude oil received at a United States refinery and petroleum products entered into the United States after the date of the enactment of this Act.

SA 4364. Mr. WARNER submitted an amendment intended to be proposed to amendment SA 4301 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VI, insert the following:

SEC. 621. HOMEOWNERS AFFECTED BY TOXIC DRYWALL.

Section 7(b) of the Small Business Act (15 U.S.C. 636(b)) is amended by adding at the end the following:

''(10) HOMEOWNERS ADVERSELY AFFECTED BY TOXIC DRYWALL.—

''(A) DEFINITION.—In this paragraph, the term 'toxic drywall' means drywall that the Consumer Product Safety Commission determines is problem drywall.

''(B) IN GENERAL.—The Administrator may make a loan to an individual under this section, if the Adminstrator determines that the primary residence of the individual has been adversely affected by the installation of toxic drywall.

''(C) PERMISSIBLE USES OF LOANS.—A loan under this paragraph may be used by an individual only for the repair or replacement of toxic drywall in the primary residence of the individual, or of components of the primary residence that are directly affected by toxic drywall (including electrical wiring), in accordance with guidance issued by a member agency of the Federal Interagency Task Force on Problem Drywall.''.

SA 4365. Mr. WARNER submitted an amendment intended to be proposed to amendment SA 4301 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

On page 217, strike lines 5 through 18, and insert the following:

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'applicable percentage' means 75 percent.

''(B) EXCEPTIONS FOR SALES OF ASSETS HELD AT LEAST 5 YEARS.—The applicable percentage shall be 50 percent with respect to any net income or net loss under subsection (a)(1), or any income or gain under subsection (e), which is properly allocable to gain or loss from the sale or exchange of any asset which is held at least 5 years.

NOTICE OF HEARING

COMMITTEE ON INDIAN AFFAIRS

Mr. DORGAN. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Thursday, June 17, 2010, at 2:15 p.m. in room 628 of the Dirksen Senate Office Building to conduct a hearing entitled ''Indian Education: Did the No Child Left Behind Act Leave Indian Students Behind?''

Those wishing additional information may contact the Indian Affairs Committee at (202) 224-2251.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. SANDERS. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on June 15, 2010, at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATION

Mr. SANDERS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on June 15, 2010, at 2:30 p.m., to hold a hearing entitled ''The New START Treaty (Treaty Doc. 111–5): The Negotiations.''

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. SANDERS. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet, during the session of the Senate, to conduct a hearing entitled ''Evaluating the Health Impacts of the Gulf of Mexico Oil Spill'' on June 15, 2010. The hearing will commence at 2:30 p.m. in room 430 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. SANDERS. Mr. President, I ask unanimous consent that the Committee on Homeland Security and governmental Affairs be authorized to meet during the session of the Senate on June 15, 2010, at 3 p.m. to conduct a hearing entitled ''Protecting Cyberspace as a National Asset: Comprehensive Legislation for the 21st Century.''

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. SANDERS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate, on June 15, 2010, at 10 a.m., in room SD–226 of the Dirksen Senate Office Building, to conduct a hearing entitled ''Executive Nomination.''

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. SANDERS. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on June 15, 2010 at 2:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENERGY

Mr. SANDERS. Mr. President, I ask unanimous consent that the Subcommittee on Energy be authorized to meet during the session of the Senate to conduct a hearing on June 15, 2010, at 2:30 p.m., in room SD–366 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGES OF THE FLOOR

Mr. GRASSLEY. Mr. President, I ask unanimous consent that Steven Weinert of my Finance Committee staff be given the privilege of the floor for the month of June.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROY RONDENO, SR., POST OFFICE BUILDING

Mr. REID. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 427, H.R. 3951.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant bill clerk read as follows:

A bill (H.R. 3951) to designate the facility of the United States Postal Service located at 2000 Louisiana Avenue in New Orleans, Louisiana, as the ''Roy Rondeno, Sr., Post Office Building.''

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. Mr. President, I ask unanimous consent that the bill be read the third time and passed, that the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER . Without objection, it is so ordered.

The bill (H.R. 3951) was ordered to be read a third time, was read the third time, and passed.

APPOINTMENT

The PRESIDING OFFICER. The Chair, on behalf of the Republican Leader, pursuant to Public Law 111–5, appoints the following individual to the Health Information Technology Policy Committee: Richard Chapman of Kentucky.

ORDERS FOR WEDNESDAY, JUNE 16, 2010

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. on Wednesday, June 16; that following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate then proceed to a period for the transaction of morning business for 1 hour, with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees, with the Republicans controlling the first half and the majority controlling the final half; that following morning business, the Senate resume consideration of the House message on H.R. 4213, the tax extenders, as provided for under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. REID. Mr. President, Senators should expect the first vote of the day to begin around 10:40 a.m. That vote will be in relation to the Baucus amendment No. 4301 to the motion to concur with respect to the tax extenders bill.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. REID. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order.

There being no objection, the Senate, at 7:38 p.m., adjourned until Wednesday, June 16, 2010, at 9:30 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate Tuesday, June 15, 2010:

THE JUDICIARY

TANYA WALTON PRATT, OF INDIANA, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF INDIANA.

BRIAN ANTHONY JACKSON, OF LOUISIANA, TO BE UNITED STATES DISTRICT JUDGE FOR THE MIDDLE DISTRICT OF LOUISIANA.

ELIZABETH ERNY FOOTE, OF LOUISIANA, TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF LOUISIANA.